Syn 7. 63. 243

THE ATTOVRNEY'S ACADEMY:

OR,

The manner and Forme of proceeding Practically, vpon any Suite, Plaint or Action whatsoeuer, in any Court of Record whatsoeuer, within this Kingdome.

ESPECIALLY,

In the great Courts of WESTMINSTER, to whose motion all other Courts of Law or Equitie; as well those of the two Prouinciall Counsailes, Those of Guild Hall *London*.; as *Those of like Cities and Townes Corporate*, And all other of Record are diurnally mooued.

With the Moderne and most vsuall Fees of the Officers and Ministers of such Courts.

The third Impression Corrected and inlarged with additions of the Verge Court and others.

Publisht by his MAIESTIES speciall Priuiledge, AND Intended for the publike benefit of all His Subjects.

Summum hominis bonum, bonus ex hac vita exitus.

THO: POVVEL. *Londino. Cambriensis.*

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THE ATTORNEYS ACADEMY:

525.08

TO THE RIGHT REVEREND IN GOD, RIGHT HONORABLE IN his KING, Right serviceable in his Country, *and Right able in himselfe*; IOHN *Lord Bysshop of* LINCOLNE, *and Lord Keeper of the Great Seale of* ENGLAND.

I See the Storme a comming; whether shall I
seeke Couert in the Mountaine, or the Valley:
Or else betake mee to the silent Streame,
And let the Tempest burst, and spit his spleane
Vpon the Earth: So I be safe and sauen,
While I shall ride at Anchor in the Hauen:
Alas, the fatall Sister-hood (in sport)
Will there betray thee; For within the Port,
Shipwracke hath disappointed and disgrac't
The Prouerbe of *Long looks for comes at last*,
Then will I launch into the very Maine,
To see if *Neptunes* deitie will deyne

To fence and ſling his Trident on my head,
By power whereof all Stormes are ſcattered:
Which, if he doe deny, my comfort is,
My Shipwracke ſhall haue noble Witneſſes,
I ſinke not in a Ditch, nor by the Shore,
But dye and lye at *Neptunes* Palace doore.
'Tis thou alone that bear'ſt the Triple Mace,
Canſt, in the very ſpeed of all their Chaſe,
Reſtraine their purſuite; doe but keepe in awe
Their nimble, neat *Nereides* of the Lawe;
Charge *Æolus* (as he does honour thee)
Hee doe not diſ-imbulke his cheekes at me.
I haue done nothing to offend thy Traine,
Rauiſht *Anemone* (as the Poets faine)
Nor ſought to rob the Sea-Gods bed of Corall,
I meane Lawes myſteries. (for that's the Moral.)
If this be ſo, vouchſafe me thy protection,
That I may bring this Worke vnto perfection.
Then will I ſing thy Fortune and thy Fame,
And proue, that *Williams* frō the *Troians* came:
Shew, where his Anceſtors long ſince did build
A Seat, which hitherto their Name haue fill'd.
Now, may that Name and Honour ne're expire,
but in a melting Firmament of Fire.

Lutum
Inmanu Figloris.

THOMAS POVVELL.

TO

TRVE NOBILITY,

AND TRYDE LEARNING,

BEHOLDEN

To no Mountaine for Eminence,

nor Supportment for Height, FRANCIS,

Lord *Verulam*, and Viſcount St.

Albanes.

O Some one helpe to pull the Curtaine by,
That clouds thy Worth in ſuch obſcurity,
Good *Seneca*, ſtay but a while thy bleeding,
T'accept what I receiued at thy Reading:
Here I preſent it in a ſolemne ſtrayne,
And thus I pluckt the Curtayne backe againe.

The ſame

THOMAS POWELL.

IN

I. N.

In Commendation of this Worke.

TIs good, 'tis common good, what would you more?
It will be more good, when there is more store.

TO

To the Gentle Reader.

Sta, Lege, Plora,
Promè (Precor) ora.

FRIENDLY Reader, *thy Religion and Zeale to common good, may somewhat stead but not secure me; for if thou beest but a temperate man in this age, wherein the Planets themselues are so extreamely distempered, the Ayre is so sike of their disease, and the lower bodies dot all complaine, and are shaken with the same Feaner: thy calme and pliable constitution.*

Vnlesse thou be superlatiue and superstitious in the faith and profession of a publicke Weale, thou shalt be

too too innerued to meete the priuy malice of those who are onely studious of priuate profit: Or to make vp mee and my good meaning to the generalll aduantage.

Lucrative. Thou mayest easily conceiue, that my ayme is not leuelled at any Lucrative Land-marke, seeing no endeauour can afford a more mercilesse and immercenary returne then this: to which, the pitty of my poore Country-men did enpresse and send me foorth in the first ranke, to be exposed vnto the most danger: Which, with all other difficulties in the Attempt, I haue receiued with the one hand, and cast away with the other; I haue euer held it more honour and happinesse to hurle my selfe head-long into the flaming Temple, then to insafe me in the midst of the mutinous Schimeonites.

Ambidextrabis agnitio — 1. Indeed, I must confesse, that my selfe was the most vnworthy and vnable of many to vndergoe this Taske.

2. That I haue waded thus farre, without calling of those of the Mystery to my guidance.

Allegoria. 3. It may be, that I haue kept besides the common Causeway, and trespassed pedibus ambulando vppon some mens inclosure.

4. Perhaps I haue sometimes erred, and mis-set the Needle of my Compasse.

5. And admit I haue not trauelled so farre as the Seas offered Passage, and Passe-ports vnto me.

1. All this is easily answered: For you must vnderstand, that the necessity of the Voyage did im-

bark

barke me, when in all this age paſt before vs, no one (how able ſoeuer) would vndergoe the Diſcouery: None would, or will preferre the Prayer of poſterity, before the purchaſe of the preſent.

2. *I knew not whom to truſt or call to Guide, leſt I ſhould betray the whole Voyage.*

3. *Beyond the Pole of Property, I care not in what Streame my Keele leaues her dinted impreſſion.*

4. *Beyond the Line, the old Compaſſe is to be laid by, and the new one is to be vſed.*

5. *I haue trauelled as ſabre as the Victuall and* farre
Tackle, which I was able to prouide with my ready ſtocke, would beare me. And it ſhall be held amongſt all well-affected Engliſh Seafarers, worthy the hazard, charge, and time beſtowed vpon it. In regard that I haue in this leading diſcouery, ſet forth where the way lies for farther Nauigation, to drive a Trade *euen to the vtmoſt confines of thoſe parts, and to make perfect and perpetuall Commerce betweene vs and them.*

The like are my endeauours for the ſetling and eſtabliſhing of a certain courſe of compliance betweene the Officers and Miniſters of our Lawes and their Clients, which would diſtinguiſh and ſet apart the vnlearned and vnconſcionable crue, from thoſe whoſe endowments of acquiſition, and indeerements of conſcience, and innated compoſition ſpeakes them farre more worthy.

For my faults of deficience, I am not aſhamed to inuite the ſupply of thoſe who haue the aduantage of bree-

breeding in their particular Offices on their sides, if they will afford it.

For my defaults of Insufficiency, I doe not blush at them. Bernardus non videt omnia: *He that knows most in the Practice of the* Lawes, *knowes most how impossible it is with the single quality of any one man living, to reduce the infinite differing* parcels of this account, *into a* perfect and certaine Summe *at the first collation or calculation thereof.*

For my Printers faults of all kinds, I giue him kindly to your mercy.

Would you haue me now to leaue all vndone, because some part cannot be done to *perfection* at the first?

Wil you *blame* me for those few imperfect *quidlibets*, without whose company and fellowship so many vsefull *quodlibets* with which the *ensuing* Tractate is forced, had neuer beene *able to holde out* so tedious a Iourney.

Surely, whatsoeuer you bee that shall doe it, *I must tell you, that the* Million Multitude *will repute and report You for a* second Alexander, *not the* Conquerour, *but the* Copper-Smith, *not famous for* Triumph, *but for* Trade: *Not* Alexander *who in his greatnesse would bee* Worshipped *as a God himselfe, but* Alexander *who in his* leather Apron *would haue the very* Puppits *which his hand rough-hued, draw an* adoration *and* reuerence *amongst the People.*

Good

To the Reader.

Good Alexander, *do not feare thy trading,*
Peruſe me not, though thou deny thine ayding.
I aske but aide of Patience, *and of* Time,
To frame, *and* finiſh this poore Worke *of mine;*
To make, *to* mend, *to* perfect, *and to* poliſh,
What Alexanders *wiſedome thinkes ſo fooliſh.*

To the reſt, I reſt

As iealous of your lones,
as zealous of your liking

Tho. Powell.

THE

THE



The Attournies Academy.

The manner of proceeding in the CHANCERIE.

THE CHANCERIE.

NOtwithstanding the practise heere before this time hath bin, That no *Sub pœna* should be sued foorth of the Court of *Chancery*, without a Bill of Complaint first exhibited. Yet lately, for the ease of all Suitors and Subiects, it hath beene thought good, that euery man may haue a *Sub pœna* out of the same Court, without any Bill first exhibited.

And this is called a *Sub Pœna ad Respondendum.*

This *Sub pœna* is the leading Processe of this Court, by which the party Defendant against whom the Complaint is intended, is summoned and required to appeare, and make answere to the Complaynant, vnder a certaine paine, and at a certaine day to come.

The dayes of *Returne* here, are the vsuall *Returnes*, as in the ordinary *Mandamus*, or else a *Sub pœna* may be returnable at a certain day, after any the sayd vsuall *Returnes*, or the great Feast dayes, from whence the *Returnes* take their denomination. So that you must adde (*Prox.*) in place where cause shall require.

As if the Feast day be to come: then it must bee *Prox. futur. in vnum mensem:*

But if the Feast day be past, then it must bee a *die Paschæ in vnum mensem prox. futur.*

And the like to other *Returnes*, before or after other Feast dayes.

Where note what time you haue for exhibiting of your Bill after the day of *Returne* prefixed in your Writ of *Sub pœna*: If it be returnable vpon a generall *Returne* day as *Crastin, Octabæ, Trec. Mensem, &c.* After such a Feast, then you haue time to put your Bill vntill the day next following: the fourth day following euery of the sad *Returnes*. And you must Accounte the *Returne* day, and the fourth day after it, for two

two of the sayd foure Dayes.

But if the *Sub Pœna* bee returnable on such a certaine day of the Month. Then your Bill must be put in the next after it before dinner.

And howsoeuer the *Sub pœna* bee returnable, if it bee but serued on the same day, whereon it is Returnable before noone, & the rising of the Court of *Chancery*, it is a good seruing, and binds the Defendant so serued, to an appearance with all conuenient speed. nota.

And if the Bill be not Filed on the next Day after the said fourth day, after a generall Returne, or next after a day certaine respectiuely: The Defendants Attourney (hauing the *Sub pœna* or Label thereof, wherewith the Defendant was serued; or an Oath that the *Sub pœna* was serued) hee may get fitting costs in euery such case.

When the Defendant hath so got costs, hee may haue a *Sub pœna*, whereby to command the Complainant, presently vppon the sight therof, to pay the Defendant or the bringer thereof, the said costs, (as afore-said.) And if the Complaynant doe refuse to pay the sayd Costs, accordingly: Then the Defendant may vpon *Affidauit* made, that the *Sub pœna* for costs was serued, haue an Attachment directed to the Sheriffe of the County, to attach the Complaynant therefore.

And vppon returne made by the Sheriffe, that

the Complainant cannot bee found, an Attachment with Proclamation may bee ſued foorth againſt the Complainant.

And that Proclamation being likewiſe returned by the Sheriffe (as afore-ſaid.)

Then a Commiſſion of Rebellion may be ſued forth againſt the Complainant.

But on the contrary ſide, if the Complainant doe put in his Bill, and the Defendant appeareth not the next day after the coſts Day.

Then the Complainant (vppon Oath made that the Defendant was ſerued with a *Sub pœna*) may haue an Attachment, and farther Proceſſe vppon like Returnes, (as in caſe afore-ſayd.)

Where note, that the party which maketh Oath that he ſerued the *Sub pœna*: Or that the *Sub pœna* was ſerued, muſt ſweare as followeth.

That hee deliuered the *Sub pœna* to the Defendant.

Or hee ſhewed the *Sub pœna* to the Defendant, and deliuered to him a note of the day of his appearance.

Or hee left the *Sub pœna* at the Defendants dwelling Houſe, or lodging, where the Defendant moſt abideth.

Or hee ſhewed the *Sub pœna* at the Defendants dwelling Houſe, to his wife, or ſome of his Seruants, and there left the *Label* of the *Sub pœna*, or a note of the day of his Appearance.

Or hee muſt ſweare that hee heard the Defendant confeſſe that hee was ſerued with *Sub pœna.*

Note, that if the party ſerued with any ſuch *Sub pœna* do wrong or abuſe the party who ſerued it, for the ſeruing thereof, or vſeth any Words of Contempt, or ſlighting of his Maieſties ſaid Writ. He is puniſhable for the ſame, by impriſonment in the Fleete or otherwiſe, at the Lord Keepers diſcretion.

And if the Defendant doe appeare within the time limited.

Then the Complainants Attourney may giue vnto the Defendants Attourney, on the ſaid day after the Coſts day, a Rule, that the Defendant doe make anſwere to the Complainants Bill, by the ſame day ſeauen night then next to come. This Rule and day giuen, muſt bee entred into the Regiſter.

And if the Defendant doe not anſwere by the prefixed day ſo entred.

Or if hee doe not otherwiſe ſatisfie the Court by ſufficient cauſe, and occaſion of the delay.

Then the Complainants Attourney may take foorth an Attachment againſt the Defendant.

The Cauſe whereby the Defendant may ſatisfie the Court of the ſaid delay in anſwere, are theſe for the moſt part. (viz.)

HEe cannot make direct Anſwere, without ſight of his Euidences of Writings which are in the Country.

Or hee cannot Anſwere without conference had, firſt with ſome perſon named in the ſayd Bill.

Or with ſome Perſon whom the matter toucheth.

Or that the Defendant is not able to Trauaile.

Of euery which reaſons aforeſaid, Oath muſt be made.

ANd vppon Oath ſo made:

Or by an eſpeciall motion made for this purpoſe:

The Defendants Attourney may procure a *Dedimus poteſtatem*, directed to certaine Commiſſioners in the Country, to take the Defendants anſwere there.

And

And the cauſe whereupon this *Dedimus poteſtatem* is granted, muſt be entred into the Regiſter.

So likewiſe in caſe where the Defendant doth not anſwere within the limited time, and an Attachment is therefore awarded againſt him: The Clerke which maketh the ſame Attachment, muſt enter it into the Regiſter; ſhewing the cauſe wherefore it was granted.

But if no day bee giuen to the Defendant to anſwer. Then the Defendant hath liberty to anſwer at any time during the Terme.

And if hee doe it not within that time: Then an Attachment may bee ſued foorth againſt him of courſe. And the ſame, with the cauſe thereof, muſt bee entred into the Regiſter: (*viz.*) That the Defendant appeared, and departed without anſwere.

If the *Sub pœna* bee returnable ſo neere vnto the end of the Terme, that there cannot be a day giuen to the Defendant to anſwere, hee muſt at his perill anſwere by the ſame day ſeauen-night following the day of his appearance, although it be in the Vacation. For the *Chancery* is alwayes open. It is *Officina ſemper aperta*.

If the *Sub pœna* be Returnable on the laſt *Returne* day of the Terme it ſelfe: Then the Defendant is at Liberty to appeare the firſt Returne of the Terme following:

But if it bee a day certaine, although the ſame bee the laſt day but one of the Terme, yet the Defendant

Defendant muſt Appeare, and Anſwere by that Day ſeuen-night next following, the ſayde Apparance.

If the *Sub pœna* bee Returnable immediately, though it be ſerued on the laſt day of the Terme, ſo it be ſerued before the riſing of the Court: the Defendant muſt alſo appeare and anſwere, by the ſame day ſeuen-night.

And if the Defendant make Oath, that hee cannot anſwere without Writings, &c. or conference with ſome other perſon: Or if hee haue a *Dedimus poteſtatem*, and Commiſſion to make his Anſwere: Hee muſt at his perill, procure his Anſwere to bee put in, before the day after the firſt Coſts day of the next Terme following; vnleſſe it be Trinity Terme: And then, and in ſuch caſe, it muſt be put in the ſecond Day, or elſe the Complainants Attourney may vpon ſuch Default, make an Attachment againſt the Defendant, and enter the ſame into the Regiſter, for that hee hath not Anſwered by the Day prefixed.

Or in other caſe, that he appeared and departed without Anſwere: Or otherwiſe, that he did not returne the *dedimus poteſtatem* at the day prefixed, &c. and as the caſe ſhall require.

And though the cuſtome hath bin heretofore, that by reaſon that the Defendant may abuſe this liberty giuen to him (as afore-ſayd) in delaying the Complaynant by *Demurrer* in Law: No

ſuch

ſuch *Demurrer* ſhould bee allowed; yet is now permitted, That the Defendant may, by his Anſwere returned by *Dedimus Poteſtatem*, *Demurre* in Lawe: For that hee, not appearing in perſon at the firſt, his Counſaile in his abſence may not *Demurre*, though the Complainants Bill bee inſufficient: Becauſe euery *Demurrer* muſt hee Deliuered into the Court by the Defendant in proper Perſon, and not by his Attourney, except in Caſes where the Defendant is not able to Appeare in Perſon. In which Caſes it is vſed, That the Defendant may deliuer his *Demurrer* to the Commiſſioners: Who, though they bee by the expreſſe Words of their Commiſſion, to receiue the Defendants anſwere vpon his Oath: Yet, if the Defendant deny to anſwere, they are to certifie the ſame, with the reaſons by him alledged, wherefore hee will not anſwere vpon Oath; leauing the ſame to the conſideration of the Court: And they are to take and returne ſuch Anſwere as the Defendant ſhall deliuer vnto them.

But where the Defendant hath before appeared, and taken coppy of the Complaynants Bill, and hauing had conference with his Counſaile therevppon, is by him reſolued that hee cannot make a direct Anſwere, by reaſon of ſome matter in the ſayd Bill layd to his charge, which hee cannot cleare without ſight of Euidences, Writings, or Conference with ſome Perſon.

There is no reaſon, that after time ſo giuen to the Defendant, from the day of his Appearance, vntill the beginning of the next Terme following, hee ſhould be admitted to *Demurre* to the Complaynants Bill.

For if there had beene any cauſe of *Demurrer*, hee might haue Demurred at the day giuen him to Anſwere; So that the Complaynant might haue had time to haue had the opinion of the Court, whether the *Demurrer* were good, or not.

So, if the Defendant, after ſuch time ſo taken doe *Demurre* in Lawe: the Complaynant ſhall haue an Attachment of courſe, as though no anſwere at all had beene put in: the ſayd Attachment is to be entred thus, (*viz.*) For that the defendant hath not anſwered by the day to him giuen, therefore an Atachments, &c.

Vpon the returne of this Attachment, he may haue the like Proceſſe as afore-ſayd.

And in caſe where there be more Defendants, euery Defendant ſhalbe puniſhed alike, for his owne like offence:

Except in caſe where a *Subpæna* is granted againſt a Man and his Wife: In which caſe a man ſhall bee vnder puniſhment for his Wiues offence.

For if a man bee ſerued with a *Subpæna* in *London* againſt him and his Wife, (ſhe beeing in the Countrey) yet if hee doe not ſatisfie the Court,

Court, by ſome of the courſes before mentioned, as well for his Wife, as for himſelfe (hee being heere in perſon) an Attachment ſhall bee granted againſt him and his Wife, as though hee had neuer appeared, which Attachment ſhall bee entred: For that *A. B.* Wife vnto *C. B.* hath not anſwered according to a Day to them prefixed: Therefore an Attachment is awarded agaynſt *C. B.* and *A. B.* his Wife.

If the Complaynant dye, his Heire or Executor, who hath the intereſt of the thing whereof hee complayneth, may put in a Bill of *Reuiuor* againſt the Defendant, his Heyre or executor, as the caſe ſhall require.

Alſo, it is to bee remembred, that if the Complaynant Exhibite his Bill agaynſt a Man and his Wife, for matter which wholly concerneth the Wife: Whereunto they make Anſwere, and after Anſwere made, the man dyeth. The Complaynant cannot proceede in that ſuite againſt the Woman, without a Bill of *Reuiuor*, becauſe the Woman ſhall not bee conſtrayned to ſtand to that Anſwere, which ſhee together with her Husband, or ſolely (as Wife vnto the Man) made to the Complaynant, for that ſnee was then vnder Couerture.

And after her Husbands death (ſhe being ſeized or poſſeſſed of the thing in Controuerſie as in her former eſtate) may (if ſhee pleaſe) make a new Anſwere, and ſhall neuer be bound or concluded

cluded by the Answere which shee made in her Husbands life time, for that shee was then vnder Coverture. And yet (if shee so please) shee may stand to that former answere of hers, and proceede in that suite accordingly.

But if the Complaynant exhibite a Bill against a *Feme* sole, whereunto shee maketh answere, and afterwards marrieth, the Complaynant may proceede against her Husband and her, without any Bill of *Reuiuor*: And her husband shall be bound by that answere which she made before marriage, because shee shall not be admitted to take aduantage of her owne act.

Where (on the contrary) if a *Feme* sole exhibite her Bill of Complaint, whereunto the Defendant answereth, and afterwards she taketh an husband, her Husband and shee shall not proceede against the Defendant, without a Bill of *Reuiuor*; because her suite is abated by her owne act, whereof the Defendant may take aduantage.

And if a Man and his Wife exhibite a Bill of Complaint, whereunto the Defendant answereth, and the man dyeth, the Woman shall bee at her choice whether she wil exhibite a new Bill, or proceed vpon the Former: And the Defendant shall bee bound to his Answere made to the Man and his Wife.

Note that in *Chancery* you cannot serue the Wife without her Husband, though the matter in question do onely concerne her, and not him.

Also

Alſo, if two ſeized of ioynt eſtate, or two Executors of one Teſtament; Or two *Obligers* or *Obligees* Exhibite a Bill of Complaynt, whereunto the Defendant anſwereth, and one of them dyeth:

The Suruiuor of them may proceed againſt the Defendant, without any Bill of *Reuiuor*.

And in all caſes where a Bill of *Reuiuor* is requiſite after the ſayde Bill exhibited, and a *Sub pœna* ſerued on the Defendant to that purpoſe: The Complaynant ſhall be in the ſame caſe, as he for his Predeceſſor was, at the time when the cauſe of *Reuiuor* accrewed, vnleſſe the Defendant ſhall appeare vppon the ſayd *Sub pœna*, and by way of Anſwere ſhewe good cauſe to the contrary: Which cauſe muſt be, that the Complaynant in the Bill of *Reuiuor*, is not Heyre, or Executor, nor ſtandeth in the like caſe, nor haue the like intereſt, or the like cauſe of Complaint, as before in the former ſuite:

And no other cauſe is to be allowed.

If the Complaynant exhibite his Bill of Complaint, for Title of any Lands, not of the yearely value of forty ſhillings: And the ſame be prooued by *Affidauit*, or depoſed, the Defendant ſhall bee diſmiſſed.

Alſo, if the Defendant demurre to any Bill exhibited againſt him, or diſclayme: The Complaynant cannot reply:

For if the Defendant be called vp by *Sub pœna*,

ad Rejungendum, hauing before made no other answere, but a *Demurrer* or a *Disclaymer*, he shal haue costs for vniust vexation.

But after the Defendant hath answered, the Complaynant hath liberty all that Terme, and all the next Terme following that; and vntill the beginning of the third Terme to put in his *Replication*.

And if he *Replye* not accordingly: The Defendants Attourney may giue to the Complaynants Attourney a seuen nights Day in the time of the next Terme following to *Replye*, which day being past, and no *Replication* brought in: On the Day then next after it, the Defendant may haue costs, as in case of a Bill to be recouered.

But if the Complaynants Replication bee put into the Court, the Defendant can haue no costs allowed vnto him.

But then the Defendant may, if he will, *Reioyne gratis* to the *Replication*, and enforce the Complaynant to goe to Commission.

Or else hee may haue Commission to examine Witnesses on his owne part against the Complaynant, and shall haue the carriage thereof.

This Commission shall bee directed to Foure such persons as the Defendant shall name: Or to any three or two of them, without any warning to be giuen to the Complaynant.

But if in this case the Complaynant will, hee may

may ioyne in Commiſſion, and haue the carriage of it himſelfe.

And then he muſt name two indifferent Commiſſioners: And the Defendant muſt name the like: (Which beeing agreed vppon.) The Complaynant muſt giue to the Defendant foureteene dayes warning, of the day and place, when, and where the ſayd commiſſion ſhall be executed.

This warning muſt be giuen, eyther by himſelfe in perſon: Or elſe left in Writing, at the Houſe or place, where the Defendant doeth moſt reſide.

The Complaynant in all caſes of Commiſſion to examine Witneſſes, ſhall haue the firſt choyce of Commiſſioners, and carriage of the Commiſſion, and for his reliefe.

Hee ſhall examine Witneſſes, in all theſe caſes following: (viz.)

FIrſt vppon a Bill by him preferred to examine VVitneſſes in perpetuall memory of the matter, to commaund the Defendant eyther by himſelfe, or by his Attourney to appeare immediately: And within foureteene dayes to ſhewe cauſe why the Complaynant ſhould not examine VVitneſſes (in perpetuall memory.)

And

And if the Defendant doe thereuppon appeare by himſelfe, or his Attourney, and ſhewe good cauſe to the contrary, ſuch as the Court ſhal allow, then the Complaynant ſhall not examine any witneſſes *in perpetuam rei memoriam*, or perpetuall memory.

But if he doe ſhewe no ſufficient cauſe, nor ioyne in Commiſſion with the Complaint, then the Complaynants Attourney muſt preferre ſixe Commiſſioners names to the Lord Keeper, or the Court, &c. Foure of the which, or foure ſuch other, as the Lord Keeper or the Court ſhall appoint, ſhall be ſet downe for Commiſſioners, and a Commiſſion for the Complaynant ſhal be made foorth, and directed to the ſayd foure Commiſſioners, or any three, or two of them, to examine Witneſſes, according to certaine Articles heereto fore ſet downe in *Chancery*, which Witneſſes are neuer to be publiſhed, during their liues, vnleſſe Oath be made.

That the Complaynant hath ſome triall wherein he ſhould giue them in Euidence.

That the VVitneſſes are not able to trauell to the place where the tryall ſhould be.

Or the party Defendant will conſent thereunto.

Neyther can they be giuen in Euidence agaynſt any other, but againſt the party which was called, to ſhew cauſe why the ſayd VVitneſſes ſhould not be examined, or ſome other, clayming vnder him

come in, hee may haue a Commiſſion to examine witneſſes of courſe, without any motion; but hee ſhall loſe the benefit of *Reioynder*: And the Complaynant, if hee pleaſe to ioyne in the Commiſſion, ſhall haue the carriage of it, giuing to the Defendant fourteene dayes warning, of the day and place, when and where the ſayd Commiſſion ſhall bee executed.

In the ioyning of this Commiſſion, The Complainant muſt firſt name one Commiſſioner vnto whom the Defendant may giue general exception.

The Defendant muſt name the ſecond.

The Complaynant the third..

And the Defendant the fourth.

The Common exceptions, which bee giuen to Commiſſioners, are theſe, (viz.)

THat the Commiſſioner named, is of Kindred or Allyed to the party, for whom he is named:

That hee is a Maſter to the party:

That he is a Land-lord vnto him:

Or a Partner vnto him:

Or haue ſuite in Law with the aduerſe party to him, by and for whom hee is named.

Or is it of Counſayle, an Attourney, or a Follower of the cauſe of the one party:

Or to whom the party is indebted:

Or any other apparant cauſe of partiality, or ſiding with eyther party.

And it is commonly vſed, that eyther party may giue exception to one, and they ſeldome giue exception to any more then one, on eyther party.

If the Complainant make default, and procure not the Commiſſion to bee executed: Then the Defendants Attourney may renue the ſayd commiſſion to the former Commiſſioners; and the Defendant ſhall haue the carriage thereof (Giuing to the complainant fourteene dayes warning, of the day and place, when, and where it ſhall it be executed.)

And yet neuertheleſſe, the complainants Attourney may, if the complainant will, renue the ſayd commiſſion alſo, and giue the like warning alſo vnto the Defendant.

Vpon the execution of eyther of which commiſſions, and returne whereof; eyther of them may giue to the other a day, to ſhew cauſe why Publication ſhould not be granted.

The day ſo giuen, is one weeke, which being expired, and no cauſe ſhewed to the contrary; Then Publication is granted; and neyther party can examine any Witneſſes afterwards, vnleſſe it be by ſpeciall order of the Court; which

is

is neuer granted, without an Oath made, that the party which requireth the ſame, nor any of them, hath ſeene, or bin made priuie to any examination of any of the Witneſſes formerly examined in this Court by eyther of the parties: And ſome good cauſe bee ſhowne, eyther by Oath, or certificate of commiſſioners, why the party could not get his ſaid witneſſes examined within the time limited for their examination.

In which caſe, ſometimes, the Court giueth order to examine Witneſſes by a time prefixed, at the parties perill, with this *Prouiſo*; That the party ſhall not in the meane time ſee the ſayd former examination.

And ſometimes the Court giueth Order, that the ſaid party ſhall examine his Witneſſes, to informe the conſcience of the Iudge onely, and not otherwiſe.

Theſe Depoſitions are neuer publiſht, but by eſpeciall order or conſent of the parties; but delivered to the Iudge, ſealed vp by the Officer, vnder whoſe cuſtody they doe remaine, to the end he may peruſe them.

If any one be called by a *Sub pœna*, to appeare in this Court: And vpon his appearance, the complainant or any other doth arreſt him in any other Court; He ſhall haue a *Superſedeas* to diſcharge the Action, becauſe he muſt haue free going and free comming.

But it is not ſo, if the complainant be arreſted,

except it be after issue is joyned, and a day is giuen for the matter to be heard. And the Complaynant comming to the Court, with euidence to maintaine his cause, is arrested: The Court in this case shall defend him, and set him free to follow his suite.

But this is seldome seene: And hee that is Plaintiffe in the other Court, may declare against him heere *Præsentem in curia*, if hee please. See 37. *Eliz.*

If any one who hath Priuiledge in *Chancery*, be arrested into another Court, in a ioynt-action with his Wife, for matter concerning her: Notwithstanding the Couerture, shee shall not haue any benefit of Priuiledge here. See *Fowlers* case.

If one who is priuiledged in another Court, as in the *Kings Bench*, *Common pleas*, or *Exchequer*, doe arrest one of this Court who is there priuiledged as a Clerk, or otherwise: The Priuiledge here (howsoeuer it is in other cases sufficient to supersede the proceding else-where) yet in this case I haue neuer seene it to preuaile against the other priuiledge.

For amongst like priuiledged men, most speed carries it away.

The

The Order made and ordayned by Sir NICHOLAS BACON, *Knight, Lord Keeper of the Great Seale, touching the Examination of witneſſes* (in perpetuam rei memoriam:) *Dated the tenth of December, in the third yeare of the late Qu.* Eliz. *followeth.*

FIrſt the Commiſſioners ſhall examine no Witneſſes, but ſuch as bee aged and impotent.

Item, the Complaynant, or party, who ſueth forth the commiſſion, ſhall giue warning by precept from the Commiſſioners, vnto the partie that ſhould take preiudice by this examination, by the ſpace of fourteene dayes at the leaſt, of the time, and place; when, and where the ſaid commiſſioners will ſit vpon this commiſſion.

And the ſame warning beeing ſo giuen: The commiſſioners are to be ſatisfied by the Oath of the party complainant, or of ſome other credible perſon, that warning is giuen accordingly, be-

forethey ſhall proceed to the execution of their Commiſſion.

Item, If the party Aduerſant, or Defendant, can ſhew before the Commiſſioners good cauſe of exception, eyther againſt the Witneſſes produced by the complaynant, or any of them, Or againſt the commiſſioners themſelues; Or otherwiſe, then they ſhall ceaſe and forbeare any farther execution of the commiſſion.

And the commiſſioners ſhall certifie and returne the ſayd cauſes, and exceptions, vp with the commiſſion.

Item, If the party aduerſant cannot ſhew ſufficient cauſe, (as aforeſaid) then the commiſſioners ſhall proceed to the examination of Witneſſes; and the party aduerſant, or defendants ſhall haue liberty to joyne in the examination of the ſame Witneſſes, or of any other likewiſe vpon Interrogatories on his behalfe (if he thinke good.)

Item, The commiſſioners ſhall certifie in their returne of the commiſſion, ſuch acceptations as the defendant ſhall take againſt the proceeding in the ſame commiſſion, and whether the Defendant did appeare or no?

And if the Defendant did not appeare, they are likewiſe to certifie and returne, whether *Affidauit* were made of the giuing of warning by precept (as aforeſayd) or no?

Orders

Orders to bee obſerued before the granting of Publication of the ſayd Commiſsion.

THe party who prayeth Publication, ſhall firſt by himſelfe, or ſome other, make Oath that the Depoſitions of the ſame witneſſes, are neceſſarily to be giuen in euidence on his behalfe.

Item, Oath alſo muſt be made, that the ſame Witneſſes be eythen dead, or ſo aged, or impotent as they cannot trauell to teſtifie (*viua voce*) without danger of life.

Item, This Oath being ſo taken, a Maſter of the *Chancerie* muſt firſt open the Commiſſion, and conſider whether this Order before mentioned hath bin obſerued in all points, wherein hee being ſatisfied, Publication is thereupon to bee granted.

Prouided alwayes, that no Depoſitions ſhall be giuen in euidence, but againſt thoſe perſons that were warned by precept (as aforeſayd) or againſt their Heires or Aſſignes.

And prouided alſo, That after examination had, and taken (as aforeſayd.) And after Publication had, and granted of the ſame examinations: The party Aduerſant, or Defendant, ſhall not

not bee admitted to haue any new examination on his behalfe, concerning the ſame matter.

Item, This Order is to bee obſerued in caſe where the commiſſion is *ex parte querentis* onely, and it is to bee engroſſed in Parchment, and ſubſcribed with the hand of the Regiſter, and to be annexed to euery of the ſaid commiſſions but not otherwiſe.

For if the Defendant joyne, then theſe Articles ſhall not need.

The difference vſed betweene a Ioynt-Commiſsion in the aforeſayd nature; And a Commiſsion ex parte, *followeth.*

THe Ioynt-Commiſſion is made in forme, as all other generall commiſſions to examine Witneſſes, *Super Interrogator. miniſtrand.* bee, Adding to the end of the ſame, theſe words (*viz.*) *In perpetuam rei memoriam permanſur.*

This Commiſſion *ex parte*, is to haue theſe rules inſerted vnder the Regiſters hand, and the Commiſſioners names are ſpecially to be aſſigned by the Lord *Keeper*, or Lord *Chancellour* for the time being.

Termino

Termino Michaelis, Anno Regni Eliz. *Reg. Sext.*

M*Emorandum*, That all Iniunctions granted for preſeruation of poſſeſſion, during the ſuite in the Court of *Chancery*, ſhall haue this clauſe and condition contained in them (*viz.*) That the party who prayeth poſſeſſion, was in poſſeſſion at the time of the Bill exhibited, and certaine yeares before; And that his intreſt is not determined by forfeiture, ſurrender, or other lawfull meanes.

And Bond muſt be put in by the party who prayeth the poſſeſſion, of the penalty of tenne pound, with condition that this Information aforeſayd is true.

Item, that all Iniunctions granted for the ſtay of Suites at the common Law ſhall haue this clauſe and condition contained in them: (*viz.*) That the ſame Suite deſired to be ſtayd, is for and concerning the ſame matter depending in this Court, and as we begunne at the common Law, after the Bill exhibited into this Court; and that Bond be put in (as aforeſayd.)

Item, That no *ſpeciall Certiorare* doe paſſe without Bond firſt giuen, on the behalfe of the party who deſireth the ſame; with condition That the Bill exhibited containeth matter ſuffi-

cient to beare a *Certiorare*, And that hee ſhall proue the contents of this Bill to be true, within Fifteene dayes after the returne of the Writ, according to the Order and courſe of this Court.

And that vpon the granting of euery *Procedendo*, the Bond aforeſayd be remembred to the Lord Keeper.

Termino Trinitatis, Anno Regni Eliz. Reg. Septimo.

IT is ordered, that all Suites for no more then ſixe acres of Land, or leſſe, except the ſame be worth Forty ſhillings by the yeare.

And all Suites for matter vnder the value of tenne pounds, ſhall be diſmiſſed this Court, for ſuch cauſe onely proued. And this Court ſhall not retaine any ſuch: But the party who bringeth the ſame hither, ſhall pay coſts to the Defendant, as this Court ſhall award.

Termino Michaelis, Anno Regni Eliz. Reg. Septimo.

IT is ordered, that all *Proceſſe* to beare Iudgement, be returnable ſixe or ſeuen dayes before the day of Hearing, and not aboue, ſaying in the beginning of the Terme, when the

the time will not permit ſo long warning.

And the ſaid Writs muſt be endorſed on the backſide, with the very day appointed for the hearing of Iudgement. And ſo much for that Terme.

By the generall cuſtome, and ancient vſage of this Court, all Bils ſhall be retaineable here, in caſe where the Equity of the cauſe requireth and beareth it, And wherein the Common Law doth affoord no releife, but rather preſſure and rigour.

After Publication once had, the Complainant may procure a day of Hearing of courſe, by ſuch an one of the ſixe Clerks as dealeth for him. And he may at the end of the Terme, when the Lord Keeper ſetteth down the dayes of Hearings, procure his hearing to be ſet downe amongſt thoſe aſſigned for the next ſucceeding Terme.

This was wont to be the ancient courſe of procuring of Hearings, howſoeuer it was lately diſ-vſed, And (as I take it) the ſame is now reſtored againe, to the good contentment of all Suitors in this Court.

The Order of Proceeding againſt ſuch as refuſe to obay his Maieſties Iniunctions, proceeding and iſſuing out of the Court of Chancerie.

FOr the breach of an Iniunction, there bee commonly three puniſhments, (*viz.*):

One, that the *Contemptor* ſhall not be in all the principall cauſe, till he haue fulfilled the *Iniunction* in euery poynt.

Another, that he ſhall not be committed to Ward in the meane time, And there continued till he doe conforme himſelf, and become obedient to the Iniunction.

The third, that he ſhall fine to the King for his *Contempt*, as the Lord *Keeper*, or Lord *Chancellour* for the time being, ſhall pleaſe to award. And the Lord *Keeper*, or Lord *Chancellour* may diſpenſe heerein, as they ſhall finde cauſe and reaſon.

Item, If the *Contemptor* doe not appeare vpon ſight of the *Iniunction*, or not obey the ſame; but doth commit ſome Act in contempt or neglect thereof, Then vpon an *Affedauit* made of the ſeruing of the ſayd *Iniunction*, There ſhall be awarded

awarded an Attachment againſt the ſayd *Contemptor*, &c. as in the caſe of *Proces* before mentioned and declared.

Item, If the *Contemptor* doe appeare, and hath not fulfilled and performed the *Iniunction*; and yet, at his comming doth offer to fulfill it, alleaging that he cannot doe it here conueniently; Then the Lord *Keeper*, or Lord *Chancellor* vſeth to appoint him a certaine day, within which he muſt doe it: And ſo, vpon Bond taken of him, with Sureties, who are to vndertake, (in caſe his owne ſecurity be not held ſufficient) that he ſhall performe the *Iniunction* within the time giuen, or at the day to render his body to priſon, there to remaine, till he hath fulfilled the ſame, He may be licenſed to depart.

What I haue hitherto ſet downe, is deſumed and collected out of the ancient Forme of practice and Orders of this Court of *Chancerie*: I ſhall now deliuer the orders and practice of latter times, moſt of which are agreeable with the former: ſome are *de nouo* ordayned; and all are ſubiect to addition or alteration, as the Court ſhall thinke fitting, and done *Salua Prerogatiua Curiæ*.

The Moderne Orders and Ordinances of Chancery follow.

Affedauits.

NO *Affedauit* ſhall be admitted or taken which ſhall tend to the proofe or diſproofe of the Title or matter in queſtion, or touching the merits of the cauſe.

Neyther ſhall any ſuch matter be colourably inſerted, in any *Affedauit* to be made touching the *Seruing* of *Proces*.

No *Affedauit* ſhall be taken againſt *Affedauit*, ſo farre as the Maſter of *Chancerie* can diſcerne, or take knowledge, &c.

If any ſuch be taken, The latter ſhall not be vſed or read in Court.

Contempts.

IN caſe of Contempts, granted vpon force, or ill words, vſed vpon ſeruing of *Proces*, Or other words of *Scandall*, proued by *Affedauit*, the party is forthwith to ſtand committed:

But for other Contempts, againſt the Orders or Decrees of the Court:

Firſt,

Firſt, an Attachmeut goes foorth vpon *Affedauit* made.

Then the party is to be examined vpon Interrogatories.

His examination, is to be referred:

And if vpon examination, he confeſſe matter of Contempt, he is to be committed:

If he confeſſe it not, The Aduerſe party may examine Witneſſes to proue the Contempt;

And if the Contempt appeare vpon proofe, the contemptor is to be committed therefore.

But if the Adverſe party fayle to prooue the fayd contempt, Or fayle to put in his Interrogatories or other proſecution, then the partie charged with the contempt, is to be diſcharged with good coſts.

They that are in Contempt, eſpecially ſo farre as *Proclamation of Rebellion*, are not to be heard neyther in that ſuite, nor in any other, except the Court of ſpeciall grace, ſuſpend the Contempt.

Impriſonment vpon *Contempts* for matters paſt, may be diſcharged of grace, after ſufficient puniſhment: Or it may be otherwiſe diſpenſed withall in ſuch caſe.

But if the impriſonment be for performance of any Order of the Court in force: Then the *Contemplator* ought not to be diſcharged, except hee firſt obey: Onely, the Contempt may bee ſuſpended for a time.

Petitions.

Petitions.

NO *Iniunctions*, *Sequeſtration*, *Diſmiſſions*, *Retainer* vppon *Diſmiſſions*, or *Finall Orders*, ſhall be granted vpon *Petitions*.

No former Order made in Court, is to be altered, croſſed or explayned, vpon any *Petition*; But ſuch Orders may be onely ſtayd vpon *Petition*, for a ſmall time, till the matter may be moued in Court.

No *Commiſſions* for examination of Witneſſes ſhall be dicharged; Nor any examinations, or depoſitions of Witneſſes, ſhalbe ſuppreſſed vpon *Petition*, vnleſſe it be firſt referred, and Certificate be made thereupon.

No *Demurrer* ſhall be ouer-ruled vpon any *Petition*.

Iniunctions.

Iniunctions for poſſeſſion or for ſtay of Suites after verdict, are to be preſented to the Lord *Keeper*, or Lord *Chancellor*, being together with the Orders whereupon they goe forth; That his Lordſhip may take conſideration of the Orders, before he ſigne them.

No *Iniunction* of any nature, ſhall be granted, reui-

reuiued, diſſolued, or ſtaid vpon priuate Petition.

No *Iniunction* to ſtay ſuites at the Common Law, ſhall be granted vpon *Priorities* of Suits onely.

Or vpon the *Surmiſe* of the Complainants Bill onely.

But vpon matter confeſſed in the Anſwere of the Defendant.

Or matter of Record.

Or writing plainely appearing.

Or when the Defendant is in Contempt for not anſwering.

Or when the debt deſired to be ſtayd, appeareth to be old, and hath ſlept long.

The creditor and the debtor haue beene dead ſome good time before the ſuite brought.

Where the Defendant appeares not, but ſits an Attachment: Or when he doth appeare and departs without anſwere, and is vnder attachment for an anſwering: Or where hee takes Oath, that he cannot anſwere without ſight of Euidences in the Country: Or where after anſwere, he ſues at Common Law by Attourney: Or abſents himſelfe beyond Sea.

In all theſe caſes, an *Iniunction* may be granted, for ſtay of ſuites at the Common Law, vntill the party anſwere, or appeare in perſon in Court, and the Court giue further order.

But neuertheleſſe, vpon anſwere put in, if there bee no motion made the ſame Terme, or at

at the next generall Seale after the Terme, to continue the *Iniunction*, in regard, and vpon ſuggeſtion of the inſufficiency of the Anſwere put in: Or in regard of the matter confeſſed in the Anſwere, then the *Iniunction* ſhall dye, and diſſolue, without any ſpeciall order.

In the caſe aforeſaid, where an *Iniunction* is to be granted, for ſtay of Suites at the Common Law; If the like Suites be in the *Chancery*, either by *Scire facias*, or by *Priuiledge*, or *Engliſh* Bill, Then the ſuite is to be ſtayd by order of the Court, as it is in other Courts by *Iniunction*.

Where an *Iniunction* hath bin obtained for ſtaying of ſuites at the Common Law, and no proſecution is had by the ſpace of three Termes afterwards: The *Iniunction* is to fall of it ſelfe, without farther motion.

Where a Bill comes in after an Arreſt, at the Common Law for a Debt, No *Iniunction* ſhall be granted, without bringing the principall money into the Court, except there appeare in the Defendants anſwere, or by ſight of Writings, plaine matter, tending to diſcharge the Debt in Equitie. But if an *Iniunction* be awarded, and diſobeyed in that caſe. Then no money ſhall be brought in, or depoſited, in regard of the contempt.

Iniunctions for *Poſſeſſion* are not to be granted before a *Decree*, but where the Poſſeſſion hath continued by the ſpace of three yeares paſt be-

fore

fore the Bill exhibited, and vpon the ſame Title, and not vpon any Title by leaue or determined.

In caſe where the Defendant ſits all the proceſſe of Contempt, and cannot be found by the Sergeant at Armes, or reſiſts the Sergeant, or make reſcues, a Sequeſtration ſhall be granted of the Land in queſtion, and if the Defendant doe not render himſelfe within the yeare, then an *Iniunction* ſhall be granted for the Poſſeſſion.

Iniunctions againſt the felling of Timber, or plowing vp of ancient Paſtures, or for the maintaining of Incloſures, or the like, ſhall be granted according to the circumſtances of the caſe, but not in caſe, where the Defendant vpon his anſwere, claimeth a ſtate of inheritance, except it be where he claimeth the Land in truſt, or vpon ſome other ſpeciall ground.

Iniunctions ſhall be enrolled, or the *Tranſcripts* thereof be fyled.

Order.

WHere any Order ſhall be made againſt the generall Rules of the Court: There the *Regiſter* ſhall plainly and expreſſely ſet down the particular reaſons and grounds, moving the Court to vary from the generall rule.

No order of the publike Court is alterable vpon *Petition: vid.* in the Title petition.

Regiſter: Order.

THe *Regiſters* are to bee ſworne.

If any Order ſhall be made, and the Court not informed of the laſt martiall Order formerly made; No benefit ſhall be taken by ſuch Order as being granted by abuſe, and ſurreption: And to that end, the *Regiſter* ought duly to mention the laſt former Order in the preſent Order.

No order ſhall be explained vpon any *Petition*, but onely in Court as they are made, and the *Regiſter* is to ſet downe the Orders, as they are pronounced by the Court, truely, at his perill, without troubling the Lord *Keeper*, or Lord *Chancellour*, by and priuate attending of him, to explaine his meaning. And if any explanation be deſired, It is to be done by publike motion, where the other party may be heard.

No draught of any order ſhall be deliuered by the *Regiſter* to eyther party, without keeping of a Copy by him: to the end that if the Order be not entred; Neuertheleſſe, the Court may be informed what was formerly done, and not be put to a new trouble, and to the end alſo, that knowledge of Orders be not kept backe too long from eyther party, but may preſently appeare in the Office.

Where a cauſe hath beene debated vpon hearing of both parties; And opinion hath bin delivered by the Court; and nevertheleſſe, the cauſe referred to Treaty: The *Regiſters* are not to omit the opinion of the Court in drawing of the Order of Reference, except the Court doe ſpecially declare, That it is to bee entred without any opinion eyther way.

In which caſe, nevertheleſſe, the *Regiſters* are out of their ſhort Notes, to draw vp ſome more full remembrance of that which paſſed in Court, to informe the Court if the cauſe come backe, and cannot be agreed.

The *Regiſters* vppon deliuery of the draught of any Order, vnto the counſell of eyther party, are not to reſpect the interlineations, or alterations of the ſaid Counſell (be the ſaid Counſell never ſo great) further then as to put them in remembrance of that which was truely deliuered in Court; and ſo to conceiue the Order vppon their Oath and duty, without any other or farther reſpect.

The *Regiſters* are to be carefull in the penning and drawing vp of *Decrees*; And eſpecially in matters of difficulty and weight: And therefore when they preſent the ſame to the Lord *Keeper* or Lord *Chancellour*, They ought to giue him vnderſtanding which are ſuch *Decrees* of weight, that they may be read and reviewed, before his Lordſhip ſigne them.

Decrees.

THe *Decrees* granted at the *Rolles*, are to be presented before the Lord *Keeper*, or Lord *Chancellour* for the time being, with the Order whereupon they are drawne, within two or three dayes after the Terme.

NO *Decree* shall be reuersed, altered, or explained, being once vnder the Great Seale but vpon Bill of *Review*, and no Bill of *Review* shall be admitted, except it be vpon error in Law, appearing in the body of the *Decree*, without farther examination of matters in Fact, or hee shall shew some new matter which hath risen in time after the *Decree*, and not any new proofe, which might haue beene vsed when the *Decree* was made.

Neuertheleſſe, vpon new proofe which is come to light since, and after the *Decree* made, and could not possibly haue bin vsed at the time when the *Decree* passed, a Bill of *Review* may be granted by the speciall Licenſe of the Court, and not otherwise.

In case of miſ-casting, being a matter Demonſtrative, a *Decree* may be explayned, and reconciled by an order without Bill of *Review*.

Where

Where note, that by the word *Miſ-caſting*, is not intended any pretended *Miſ-caſting*, or miſ-valuing, but onely errour in the Auditing, or numbring.

No Bill of *Review* ſhall be admitted, or any other new Bill to change matter decreed, except the *Decree* bee firſt obtained, and performed: And if it be for Land, that the poſſeſſion be yeelded: If it be for money, that the mony be paid, If it be for euidence, that the euidence be brought in; and ſo in other caſes which ſtand vpon the ſtrength of the *Decree* alone.

But if any Act be deſired to be done, which extinguiſheth the parties right at the Common Law (as making of Aſſurance and Releaſe: Acknowledging of Satisfaction, Cancelling of Records or Euidence, and the like) Thoſe parts of the *Decree* are to be ſpared, vntill the Bill of *Review* be determined: But ſuch ſparing is to be warranted by publique Order made in Court.

No *Decree* ſhall be made vpon pretence of equitie, againſt the expreſſe proviſion of an Act of Parliament.

Neuertheleſſe, if the conſtruction of ſuch act of Parliament, hath for a time gone one way in generall opinion and reputation; and after by a latter iudgment hath beene controlled: Then Releiſe may be giuen vpon matter of equity for caſes ariſing before the ſaid Iudgment: becauſe the Subiect was in no default.

Impri-

Impriſonment for breach of a *Decree* is in nature of an *Execution*, and therefore the cuſtodie ought to be ſtraight, and the party not to haue any liberty to go abroad, but by ſpeciall licenſe of the Lord *Keeper*, or Lord *Chancellor* being: But no cloſe impriſonment is to bee but by expreſſe order for wilfull and extraordinary Contempts and diſobedience (as hath beene vſed.)

In caſe of obſtinate diſobedience, in the breach of a *Decree*, an *Iniunction* is to be granted *Sub pœna* of a ſumme: and vppon *Affedauit*, or other ſufficient proofe of perſiſting in contempt, Fines are to be pronounced by the Lord *Keeper*, or Lord *Chancellor* in open court, and the ſame are to bee eſtrated downe into the Hannaper by ſpeciall order.

In caſe of a *Decree* made for the poſſeſſion of Land, a Writ of *Execution* goeth forth, and if that be diſobeyed, Then *Proceſſe of Contempt*, according to the courſe of the Court, is to goe forth againſt the perſon vnto the commiſſion of Rebellion; and then a Sergeant at Armes by ſpeciall Warrant: and in caſe the Sergeant at Armes cannot find him, Or he be reſiſted, Or if he vpon his commitment do perſiſt in his diſobedience, an *Iniunction* is to be granted for the poſſeſſion, and in caſe that it alſo bee diſobeyed, Then a commiſſion is to bee made to the Sheriffe to put his aduerſary into poſſeſſion.

Where the party is committed for breach of a

Decree

Decree, Hee is not to be enlarged, vntill the *Decree* be fully performed in all things which are to be done presently.

But if there be other parts of the *Decree* to bee performed at dayes or times to come: Then hee may be enlarged by order of the Court, entring into Recognizance with Sureties for the performance *de futuro*, but not otherwise.

Where causes come to hearing in Court, no *Decree* bindeth any person, who was not serued with Proces *ad audiendum Iudicium*, according to the course of the Court; Or did appeare *gratis* in the Court.

No *Decree* bindeth any one that commeth in *bona fide*, by Conveyance from the Defendant before the Bill exhibited; And is made no party eyther by Bill or by Order.

But where hee comes in *Pendente lite*, and while the Suite is in full prosecution, and without any colour of allowance, or priuity of the Court; There regularly the *Decree* bindeth.

But if there were any intermission of suite; Or the Court were made acquainted with the conueyance, The Court is to giue order vppon the speciall matter according to Iustice.

Where a *Decree* made for a Rent to bee payd out of Land; Or a summe of money to bee leuied vppon the profits of Land; There a *Sequestration* of the same Land beeing in the

Defendants hands may be granted vppon the *Decree*.

Where the *Decree* of the *Prouinciall* counſailes, Or the Court of *Requeſts* or the like, are by contumacy or other meanes interrupted; There the Court of *Chancery*, vpon a Bill preferred for corroboration of the *Decrees* of that Iuriſdiction, ſhall giue remedy.

Where any cauſe comes to Hearing heere, which hath bin formerly *Decreed* in any other of the Kings Courts of Iuſtice at *Weſtminſter*; Such *Decree* ſhall be firſt read, and then this Court ſhall proceed to heare the reſt of the euidences on both ſides.

Decrees vppon *Suites* brought after Iudgement, ſhall containe no words to make voyde or weaken the Iudgement: But ſhall onely correct the corrupt Conſcience of the Party, And rule him to make Reſtitution, or to performe other acts, according to the equitie of the cauſe.

Bill of Review.

Decrees are not to be reuerſed, altered, or explained, being once vnder the Great Seale, but vpon Bill of *Review*.

Bill of *Review* ſhall not be admitted except the *Decree* be firſt obeyed and performed.

No *Bill* of *Review* ſhall be put in, except the party

party that preferres it, enter into *Recognizance*, with Sureties for the ſatisfying of Coſts & Damages for the Delay, if it be found againſt him.

Reference, Report.

NO *Reference* vppon a *Demurrer*, or queſtion touching the Iuriſdiction of this Court, ſhall be made to the Maiſters of the *Chancery*, But ſuch *Demurrer* ſhall be heard and ruled in the Court, or by the Lord *Keeper* or Lord *Chancellour* himſelfe.

For the confirming or ratifying of any *Report*, No Order ſhall be made, without day to be giuen, by the ſpace of a Seuen-night (at leaſt) to ſpeake vnto it in Court.

No *Reference* ſhall be made to any Maiſter of the Court, or any other Comiſſioner or Commiſſioners, to heare and determine, where the cauſe is gone ſo farre as to examination of Witneſſes: Except it be in ſpeciall caſes of Parties neare in bloud, or of extreame poverty, Or by conſent:

And generally, *References* of the ſtate of the cauſe, are to be ſparingly granted; except it be by conſent of the parties.

No *Report* ſhall be reſpected in Court, which exceedeth the Warrant of the Order of *reference* which leadeth it.

The Maſters of the Court are required, that by *Report* they doe not certifie the eſtate of the cauſe; as if they would make *Breuiates* of the Euidence on both ſides, which doth little eaſe the Court; But that thay doe it with ſome opinion; Or otherwiſe, in caſe they thinke it too doubtfull, to giue opinion therein; And therevppon they are to make ſuch ſpeicall *Certificate*; and the cauſes to goe on to a judiciall hearing, without reſpect had to the ſame.

If both parties conſent to a *Reference* for the examination of Accompts, to make the Cauſe more ready for hearing, it may bee granted. But generally, matters of Accompt, excepting in very weighty Cauſes, are not fit for the Court, but are to be prepared by *Reference*, with this prouiſion neuertheleſſe; That the Cauſes come firſt to Hearing, and vppon the entrance into a Hearing, they may receiue ſome direction, and bee turned over to bee conſidered and prepared.

The like courſe of *Reference* is to be taken for the examination of Court Rolles, vpon any Cuſtomes; and the Copies ſhall not bee referred to any one Maſter, but to two Maſters at the leaſt.

No *Reference* ſhall be made of the *Inſufficiency* of any Anſwer, without ſhewing of ſome particular points of the defects thereof; And not vpon ſurmize of the *Inſufficiencie* generally.

Where

Where a Truſt is confeſſed by the Defendants anſwere, there needeth no farther hearing of the cauſe, but a *Reference* preſently to be made of the Accompts, and ſo they are to goe on to the hearing of the Accompts.

Diſmiſſion.

WHere Cauſes are diſmiſt vppon full Hearing, and the Diſmiſſion ſigned by the Lord *Keeper* or Lord *Chancellour*, ſuch Cauſes ſhall not be retained againe, neither ſhall any new Bill be admitted, except it be vpon new matter, like vnto the caſe of the Bill of *Review*.

In caſe of all other Diſmiſſions, which are not vppon hearing of the Cauſe, if any new Bill bee brought, the Diſmiſſion is to be pleaded; and after *Reference* and *Report* of the *Contents* of both Suites, and conſideration taken of the Cauſe or cauſes of the former Diſmiſſion; The Court ſhall rule and order the Retayning or Diſmiſſion of the new Bill, according to Iuſtice, and the nature of the Caſe.

All Suites grounded vpon Wils *Nuncupatiue*, Leaſes *paroll*, Or vppon Long Leaſes, that tend to the defeating of the Kings *Tenures*, Or for the eſtabliſhing of the *Perpetuities*, Or granted vpon *Remainder* over vnto the Crowne, to defeat purchaſers; Or for *Brocage*, or Rewards to

making mariages, Or for bargaine at play; or Wagers for bargaines for Offices, contrary to the Statute of the second of *Edward* the sixt; Or vpon contracts for *Vsurie* or *Simony*, are Regularly to be dismissed vpon motion, if they be the whole matter of the Bill; and there be no speciall circumstances to moue the Court to allow them a Proceeding.

And all Suites vnder the value of ten pounds, are Regularly to be dismissed.

Dismissions are properly to be payed and had, either vpon hearing, or vpon Plea vnto the Bill, when the cause comes first into the Court.

But *Dismissions* are not to be prayed after the parties haue bin at charge of examination of witnesses, except it be vpon speciall cause.

If the Complainant discontinue prosecution, after all the Defendants haue answered, aboue the space of one whole Terme, the cause is to be dismissed of course without motion.

After *Replication* is put in, the cause is to be dismissed without motion and order of the Court.

For double vexation, the cause may bee dismissed.

Where causes are remoued by speciall *Certiorare*, vppon a Bill containing matter of equitie, The Complainant is vpon receipt of his Writ, to put in Bond to proue his suggestions within fourteene dayes after the receipt, which if he do

not

not proue, then vpon certificate from either of the Examiners, preſented to the Lord *Keeper* or Lord *Chancellor*, the cauſe ſhall be diſmiſt with coſts, and a *Procedendo* ſhall be granted.

Demurrer.

Demurrers and *Pleas* which tend to the diſcharging of any Suite, ſhall be heard firſt vpon euery day of Orders, that the Subject may know, whether he ſhall need to giue further attendance or no.

A *Demurrer* is properly vpon matter *defective* contained in the Bill it ſelfe: or forraigne matter.

But a *Plea* is of forraigne matter, to diſcharge or ſtay the Suite. (as)

That the cauſe hath bin formerly diſmiſt.

That the Complainant is vtlawed.

That the Complainant is excommunicate.

That there is another Bill depending for the ſame cauſe,

Or the like.

And ſuch *Plea* may be put in without Oath, in caſe where the matter of *Plea* appeares vppon *Record*, but if it be any thing which doth not appeare vppon *Record*, then the *Plea* muſt be put in vpon Oath.

No Vtlary ſhall be allowed, without pleading the *Record ſub pede Sigilli*: Nor Plea of Excommuni-

munication without the Seale of the Ordinary.

Where any ſuite appeareth vpon the Bill to be of the nature of any of thoſe which are Regularly to be diſmiſſed, according to the Order before mentioned, the ſaid Order is to be ſet forth by way of *Demurrer*.

Anſwere.

WHere an Anſwere ſhall be certified to be ſufficient, The Defendant is to pay coſts.

And if a ſecond Anſwere be returned inſufficient in the poynts before certified for inſufficient, then he ſhall pay double coſts.

And vpon the third like caſe, treble coſts.

And vpon the fourth, quadruple coſts, and then to be committed alſo till he ſhal haue made a perfect and ſufficient Anſwere, and he ſhall be examined vpon *Interrogatories*, touching the poyuts *defectiue* in his anſwere.

But if any anſwere be certified to be ſufficient, then the Complainant is to pay coſts.

No *inſufficiencie* of anſwere can be taken hold of, after *Replication* put in, becauſe it is admitted for *ſufficient* by the *Replication*.

An anſwere to a matter charged as the Defendants owne fact, muſt be direct, without ſaying that *It is to his remembrance*, or *as he beleeueth*,

If

If it be laid downe to bee done within ſeauen yeares before.

And if the Defendant doe deny the Fact: Then he muſt trauerſe it directly, and not by way of *Negatiue pregnant.*

As if a fact be layd to be done with diuers circumſtances; The Defendant may not Trauerſe it *literally*; as it is layd in the Bill: But he muſt Trauerſe the point of ſubſtance.

So as if hee be charged with the receipt of an hundred pounds; He muſt Trauerſe that he hath not receiued an hundred pounds, or any part thereof. And if hee haue receiued any part of it, he muſt ſet downe what part he hath receiued.

If a Hearing be payed vpon Bill and Anſwere: The Anſwer muſt be admitted to bee true in all points.

And a *Decree* ought not to be made, but vpon hearing of the anſwer read in Court.

Where no Counſaile appeares for the Defendant at the Hearing; and the Proceſſe appeares to haue beene ſerued; the Anſwere of ſuch Defendant is to be read in Court

No new matter is to bee contained in any Replication, except it be to auoyd matter ſet forth in the Defendants Anſwere.

Other things Promiſcuouſly layd together.

ALL Coppies in *Chancery* ſhall contayne fifteene Lines in euery Sheete thereof, written orderly, and vnwaſtefully, vnto which ſhall bee ſubſcribed the name of the principall Clerke of the office where it is written, or his Deputies name, for whom hee will anſwere. For which onely *Subſcription*, no Fee at all ſhall bee taken.

All Commiſſions for Examination of Witneſſes, ſhall bee *ſuper Interrogatorij incluſis*, or Interrogatories incloſed onely: And no returne of Depoſitions into this court ſhall be receiued; but ſuch onely, as ſhall be either compriſed in one Roll, ſubſcribed with the names of the Commiſſioners, or elſe in diuers Rolles, whereof each one ſhall bee ſo ſubſcribed.

If both parties agree in a Commiſſion, And vppon warning giuen, the Defendant bringeth his commiſſioners, but produceth no Witneſſe; nor Miniſter Interrogatories, but afterwards ſeekes a new commiſſion, the ſame ſhall not bee granted.

But neuertheleſſe (vppon ſome extraordinarie excuſe made for the Defendants default) he may haue

haue liberty granted vnto him by his especiall order to examine his Witnesses in Court, vppon the former Interogatories, giuing to the complainant or his Attourney notice that he may examine also if he will.

The Defendant is not to bee examined vppon Interrogatories, except it be in very speciall cases, by expresse order of the court, to sift out some fraud or practise, pregnantly appearing to the Court: Or otherwise vppon offer of the complaynant, to bee concluded by the answere of the Defendant, without any liberty farther to disproue such answere, or to impeach him afterwards of Perjury.

Decrees made in other Courts, may bee read vpon Hearing, without any Warrant by speciall order.

But no Depositions taken in any other Court, are to be read but by especiall order.

Regularly the Court granteth no Order for reading of forreigne Depositions; except it bee betweene the same parties, and vpon the same Title or cause of suite.

No examination is to be had of the credit of any Witnesse, but by speciall order, which is likewise sparingly to be granted.

Where it shall appeare the complainant had not cause of suite, he shall pay to the Defendant his vtmost costs, to be assessed by the Court.

If any Bill, Answere, Replication, or Reioyn-

der ſhall bee found of an immoderate length, both the partie who put it in. And his Counſell vnder whoſe hand it paſt, ſhall bee fined by the Court.

If there bee contayned in a Bill, Anſwere, or other Pleading or any interrogatory, any matter libellous, or ſlanderous againſt any perſon that is not party to the Suite, or againſt ſuch as are parties to the ſuite vpon matter impertinent, or in Derogation of the ſetled Authoritie of any of his Maieſties Courts; Such Bills, Anſweres, Pleadings, or Interrogatories, ſhall be taken off the Flye, and ſuppreſt; And the parties ſhall bee ſeuerely puniſhed by commitment, or Ignominie, as ſhall be thought fit for his abuſe of the Court: And the Counſaylors at Law who ſhall ſet their hands to the ſame Bills, Anſweres, Pleadings, or Interrogatories, ſhall likewiſe receiue reproofe, or puniſhment, if cauſe bee.

No *Scire facias* ſhall be awarded vpon *Recognizances* not inrolled; Nor vpon *Recognizances* inrolled, vnleſſe it bee vppon examination of the *Record* with the Writ.

No *Recognizances* ſhall bee inrolled after the yeare, except it bee vppon ſpeciall order of the Lord *Keeper* or Lord *Chancellor* beeing.

No Writ of *Ne exeat regna*, *Prohibition*, *Conſultation*, *Statute of Northampton*, *Certiorare* ſpeciall, or *Procedendo* ſpeciall, or *Certiorare*, or *Procedendo* generall, more then once in the ſame cauſe;

cause; Not *Habeas Corpus*, or *Corpus cum causa*, *De vi laica amouenda*, or *Restitution* therevpon, Or *de Coronatore & viridario eligendo*, *De homine replegiando*, *Assistas* speciall, *De bellino amouendo*, *Certiorares super presentationibus factis coram Commissionar.* Sewars, or *ad quod dammum*, shall passe without warrant vnder the hand of the Lord *Keeper* or Lord *Chancellor*, beeing signed by the one of them, Excepting onely such writs of *ad quod dammum*, as shall bee signed by his Maiesties Attourney Generall.

Writs of Priuiledge would bee reduced to a good and fitting rule, for number of persons priuiledged, and the case of Priuiledge.

The number would be set downe by *Schedule*.

For the case, it is to bee vnderstood, that besides the persons priuiledged as *Attendants* vpon the Court; Suitors and Witnesses are onely to haue priuiledge *eundo, redundo, & morando*, for theyr necessary attendance, and not otherwise. And that such Writs of priuiledge doe onely discharge an Arrest vppon the first Processe.

And yet where the partie is taken in execution at time of necessary attendance here required, it is to be taken as a contempt to this Court, and accordingly to be punished.

No *Supplicauit* for the *Good behauiour* shall bee granted, but vpon Articles grounded vpon Oath at least, or vpon a Certificate of any one Iustice

of Assize, or two Iustices of the Peace, with Oath that it is their hands; Or it may be graunted by order of the *Starre-Chamber*, or *Chancerie*, or other of the Kings Courts.

No *Recognizance* of the *good behauiour* and the *Peace* taken in the Country, and certified into the *Petty-Bagge*, shall be syled within the yeare, without speciall Warrant.

Writs of *Ne exeat Regna*, are properly to bee graunted, according to the suggestion of the Writ; In respect of Attempts, preiudiciall to the King and State: In which cases, the Lord *Keeper*, or Lord *Chancellour* will grant them, vpon the prayer of any the Principall Secretaries, without cause shewing; Or vpon such Information as his Lordship shall thinke to bee of weight.

But otherwise also they may bee granted according to the ancient practise vsed in case of *Interlopers* in Trade, Great *Bankrupts*, in whose estate many Subiects are interessed; or in other cases that concerne multitudes of the Kings subiects, And also in case of *Duels*, and some other cases.

All Writs, Certificates, and whatsoeuer other *Processe* returnable *Coram Rege in Cancellaria*, shall be brought into the Chappell of the *Rolles*, within conuenient time after the Returne thereof: And shall be there filed vpon their proper files and bundles as they ought to bee, and as the practice

tice hath bin heretofore, except onely the depoſitions of the Witneſſes, which may remaine with any of the ſixe Clerkes, by the ſpace of one yeare next after the cauſe in court ſhall be either determined by Decree, or otherwiſe diſmiſt.

All *Iniunctions* with their Tranſcripts ſhall bee likewiſe inrolled, as heretofore was vſed.

All dayes giuen by the court to Sheriffes to Returne their Writs, Or to bring in their Priſoners vppon Writs of priuiledge, or otherwiſe betweene party and party vnpriuiledged, ſhall bee filed either in the *Regiſters* Office, or in the *Petty-Bagge* reſpectiuely.

And all Recognizances taken to the Kings vſe, or vnto the Courts, ſhall be enrolled in conuenient time with the Clerke of the Inrolement, And callenders ſhall be made of them, and the ſayd callenders ſhall bee preſented euery Michaelmas Terme to the Lord *Keeper* or Lord *Chancellor* being.

In caſe of Suites vpon the *Commiſſion* for *Charitable vſes* to avoyd charge, there ſhall need no Bill, but onely exceptions vnto the *Decree*: and Anſwere is to bee made forthwith thereunto and thereupon: And then vpon ſight and peruſall of the *Inquiſition*, and the Decree brought vnto the Lord *Keeper* or Lord *Chancellor*, by the Clerk of the *Petty-Bagge*, His Lordſhip will giue order vnder his hand for an abſolute *Decree* to be drawn vp.

Vpon

Vpon ſuite for a *Commiſſion* of *Sewers*, the names of thoſe that are deſired to bee Commiſſioners, are to bee preſented to the Lord *Keeper* or Lord *Chancellor* in writing. And then his Lordſhip will ſend theyr names to ſome Prittie Counſellor, or the Leiutenant of the County, or ſome Iuſtice of aſſize, reſiding in thoſe partes for which the Commiſſion is prayed; To conſider of them, That they be not put in for priuate ends; And vppon the returne of ſuch opinion, his Lordſhip will giue farther order for the commiſſion to paſſe.

No new Commiſſion for *Sewers* ſhall be granted while the firſt is in force, except it bee vppon diſcouery of abuſe or fault in the firſt Commiſſioners, or otherwiſe vppon ſome great and weighty ground.

No Commiſſion of *Banquerupts* ſhall be granted but vppon *Petition* made to the Lord *Keeper* or Lord *Chancellor*, and the names of thoſe that are deſired for Commiſſioners ſhall bee preſented therewithall: Of which his Lordſhip will take conſideration, and alwayes ioyne ſome perſons learned in the Law, with the reſt that ſhall bee allowed; yet ſo as care bee taken, that the ſame perſons allowed, bee not too often vſed in ſuch Commiſſions. And likewiſe, that Bond beeginen with good Sureties, of the penalty of two hundred pounds at leaſt, to proone the partie againſt whom the Commiſſion is ſued

forth

foorth, to bee a Bauquerupt.

No Commiſſion of *Delegates*, in any caſe of weight ſhall be awarded, but vppon *Petition* preferred to the Lord *Keeper* or Lord *Chancellor*, who will name the Commiſſioners himſelfe; to the end, that they may bee perſons of fitting quality, hauing regard to the Weight of the Cauſe, and the Dignity of the Court from whence the *Appeale* is.

Any man ſhall be admitted to defend in *forma pauperis* vpon Oath:

But the Complainants are ordinarily to be referred to the Court of *Requeſts*;

Or to the *Prouinciall* Counſailes, if the caſe ariſe in their Iuriſdictions;

Or to ſome Gentlemen in the Country, except it be in ſome ſpeciall caſes of commiſeration, Or *potency* of the aduerſe party.

Suites after Iudgement, muſt bee brought, according to his Maieſties Order beeing vppon *Record*.

Licences to collect for loſſes by Fire or by Water, are not to be granted but vppon good Certificate; And they are rarely to be renued: And they are euer to bee directed vnto the County where the loſſe did ariſe, if it were by Fire, and the Counties adioyning vnto it as the caſe ſhall require: And if it were by Sea; Then, vnto the County where the Port is from whence the Ship went, and to ſome Counties adioyning.

No exemplyfication ſhall bee made of any Letters Patents *inter alia*, with omiſſion of the generall words; Nor of records made voyde or Cancelled; Nor of the *Decrees* of this Court not Inrolled; Nor of *Depoſitions* by parcels or fractions omitting the reſidue of the ſaid *Depoſitions*; Nor of *Depoſitions* in Court, to which the hand of the Examiner is not ſubſcribed; Nor of Records of the Court, not Inrolled nor fyled; Nor of Records of any other Court, before the ſame bee duely certified to this Court, and orderly fyled heere; Nor of any Record vppon ſight and examination of any Coppy in Paper; But vpon ſight or examination of the Originall.

I will withall ſet downe the very words, with which the Author concludes theſe laſt recited Orders; becauſe you may accordingly giue them extent, dimention, and valuation.

The Words are theſe, (viz.)

BEcauſe Time and Experience may diſcouer ſome of theſe Rules to be inconuenient: And ſome other fit to bee added hereunto; Therefore his Lordſhip intendeth in euery ſuch caſe, from time

time to time, to publiſh ſuch *Reuocations* or *Additions*, as they ſhall offer themſelues.

Howſoeuer I take it, there is not much alteration had in them; it may bee there is ſome addition: But for the *Roles* ſide (as vnto the making of *Decrees*, and granting of *Iniunctions*) which was heretofore exerciſed alike there, as in Court, or on the Lord *Keepers* ſide (which I conceiue grew by the connexing of the Lord *Keepers* Office, and Maſter of the *Roles* in the ſame perſon) I cannot ſay how the caſe ſtands at this preſent, hauing withdrawne my ſelfe now theſe ſeauen yeares paſt, from any practice in the Lawes in any kind.

And becauſe the Confirmation of Ordinances and by-Lawes, made for the better gouernment of Societies Incorporate, doe for the moſt part paſſe through the hands of the Lord Keeper, *or Lord* Chancellor *for the time being, according to the Statute of the nineteenth of* K. Henry 7. *Therefore, and for that it is onely the path of a very few trauelling in the Lawes; I thing good to write according to mine owne Practiſe therein (as followeth)*

IF a Corporation bee newly erected, and is to haue alſo Ordinances *de nouo*, made for the

better gouernment of their Company, or Body: They must first make a perfect draught of them by aduice of Counsaile in a Paper-booke.

Your Counsaile would be both learned in the Lawes of the Land, the Prerogatiue of the King, the Subiects right, and the Priuiledges, Powers and Customes of the great body of the City, or Towne corporate, wherein you are subincorporated as Brethren of a Trade, Mysterie, or Occupation.

For any Ordinances made either against the Lawes of the Land, or the Prerogatiue, are not onely voyd in themselues, but farther punishable in those who execute them, notwithstanding any confirmation whatsoeuer. And therefore commonly in all Patents and Charters of Incorporation, there is a speciall clause of *prouiso* in this point and to this purpose.

And I doe herein indigite at two manner of Ordinances, vnder which the Commonalties of corporation do much grone and complaine their pressures.

The one is a presumption and intrusion vpon the Birth right of a Free borne Subiect (*viz.*) the Imprisonment of their Bodies, for breach of an Ordinance of their company (a thing most vnlawfull, and vnreasonable, and yet too frequently practised by too many of them.) For colour whereof, I haue seene a Warrant *Par mesne* lying in the Halls of some Companies, vnder

vnder which they subscribe the names of whom they list to commit; and then deliuer him to an Officer, who attends them at their Court for the purpose, and so it is not pretended to bee their owne act, but the will and commandement of a greater Magistrate.

Or an Intrusion vpon the Subiects Birth-right, by denying him to seeke Law and Iustice before the King, the Fountaine of Iustice, at his Court at *Westminster*.

Or to set vp and vse his Trade, after hee hath arriued at his Freedome by honest seruice, according to the Lawes of the Land, and the ancient custome of the place,

Or to take a House for his best conuenience, aduantage and accommodation of his Trade?

Or the like.

The other Agrieuance which I point at, is a Consumption and Confusion of the purse and estate of the Subiect, by grieuous Fines, Amerciaments and Impositions, and by laying of Offices vpon them, which draw great expence, in Pleading and Profutenesse, of which I shall take occasion in a more fitting place, to speake and write at more liberty.

I proceed with my Direction in the passing of any such Ordinances.

The Paper booke being perfected by such able Counsaile, you are to draw your Petition in the names of the Master and Wardens, in name,

and in the behalfe of the whole Company, to bee directed and diliuered with the ſayd Booke to the Lord *Keeper* or Lord *Chancellor*, deſiring; Whereas it hath pleaſed his Maieſty ſo to Incorporate you, and to giue you power to make Orders & Conſtitutions for your better gouernment; which Orders are by the Statute of the nineteenth of King *Henry* 7. to bee peruſed, examined, and allowed, by the Lord *Keeper*, Lord *Treaſurer*, and the two Lord Chiefe Iuſtices of either Bench, or three of them at leaſt, which prouiſion you are ready to obſerue and performe on your parts.

It may therefore pleaſe his Lordſhip to giue order to the two Lords chiefe Iuſtices, to pervſe, examine, and make the ſame fit and worthy the confirmation and allowance of his Lordſhip, and themſelues, &c.

Hereupon, his Lordſhip will giue order vnder your Petition: That the two Lords chiefe Iuſtices doe accordingly peruſe, examine, and make them fit, as is deſired.

They the ſaid Lord chiefe Iuſtices doe by vertue of that Order and Warrant peruſe the ſame; and after they haue ſo altered, added, or ſubtracted, as they ſhall thinke fit.

Then their Lordſhips giue order to one of their owne Clerkes, to write them ouer fayre againe into a Paper Booke coppy-wiſe. Which when they haue exactly examined with the former

mer ſo by them reformed, They ſubſcribe the ſame, and ſend them ſealed vp backe againe to the Lord *Keeper*: who vpon the opening thereof, and ſight of the approbation of the Lords chiefe Iuſtices, doth likewiſe giue order in writing, at the Foote of the ſaid Booke ſubcribed with his hand, That the ſame bee forthwith faithfully ingroſſed in Parchment (and in the *Chancery* hand) by ſuch an one as it ſhall pleaſe the two Lords chiefe Iuſtices to appoynt therevnto. And that they giue him teſtimony of the due performance thereof, by the confirmation of the ſame under their ſeuerall hands and Seales, and ſo the Lord *Keeper* ſeales the Booke vp againe, and returnes it to the Lords chiefe Iuſtices, who giue direction for the engroſſement, according to the order aforeſaid.

And when the ſame is ſo engroſſed, and examined with the Paper-booke, they ſet their ſeuerall hands and Seales thereunto, and deliuer it to your ſelues, to carry to my Lord *Keeper*. Vpon ſight whereof hee vſeth alſo to Seale and ſubſcribe the ſame.

But I pitty the caſe very much, that their is no Inrolement, Record, or Regiſter, of any ſuch Ordinances kept in any place, the rather for ſo many thouſands of people are gouerned by them, being Law to which they can haue no recourſe, nor can conſequently take the true meaſure, by which they ſhould faſhion their man-

manners, to fit ſmoothly to the body of their Ordinance.

It is not the reading of them once in a yeare in parcels and curſorily, can take impreſſion in the moſt learned of them (if there be any ſuch) much leſſe in the generall ſort.

I hope that ſucceeding times will looke into this euill, euen in the greateſt bodies incorporate, and giue it a fitting redreſſe.

And ſo much ſhall ſuffice for ſuch Ordinances.

I now returne to my other ſcattered pieces which I haue gathered together, and faſciculated into the little bundle Following.

Inſtruction how to ſue a Recognizance *taken in* Chancerie.

If you would ſue a *Recognizance* that is taken there,

When it is Forfeited, you are to bring a Copie of the ſame to one of the Clerkes of the *Petty-Bagge*: And he will thereupon make you two Writs of *Scire facias*: The one of a Re-

turne

turne paſt (if you will:) and the other of a *Returne* to come. Theſe you muſt deliuer to the Sheriffe of *Middleſex*, who will returne them, as the Law requireth him to doe in this caſe.

And when they are returned, you are to carry them againe to the *Petty-Bagge*.

And to reteine one of the Clerkes there to be your Attourney herein.

And then giue the Defendant a day to appeare: which if he doe not accordingly, a Iudgment is to bee awarded againſt him for his ſaid default.

And if he doe appeare by the day to him ſo giuen; Then are you the Plaintiffe to *Declare* againſt him the Defendant, and hee is to anſwere and plead to you heere, as is vſed in other Courts of Common Law.

And when you are at full iſſue vppon the *Venire facias*, you are to haue your Witneſſes, and this is the vtmoſt extent of the proceeding heere in *Chancery*.

For then if you will goe to Tryall, you muſt haue the whole proceeding heere written into Parchment; and it muſt either bee ſent by the Officer of the *Petty-Bagge*, ſealed vp to bee tryed in the *Kings Bench* or *Common-pleas*, (at your election) or elſe it may bee deliuered ouer vn ſealed, by the Lord *Keeper* or Lord *Chancellour* which is agreeable with the words, *ſe propria manu, &c.*

Where note, that there can bee no Tryall by Iury here in *Chancery*.

Instruction how to sue a Statute Staple forfeited here.

IF you will sue a *Statute Staple* here.

You must first goe to the Clerke of the *Staple*, and shew him the date of your *Statute*; when it was acknowledged, which may also appeare by the *Statute* it selfe.

And then he must make your *Certificate* thereupon, and seale it vp.

Then are you to goe with it to the Clerke of the *Crowne*, and to get him to make the *Exigent* therein.

You must deliuer to the Clerke of the *Crowne* your *Certificate*, You must then haue your Obligation made, and your *Extent* to bee made and endorsed on the backside, as is vsed in such cases. This endorsement of the *Extent* is called the Fine of the *Extent*, which must bee deliuered vnto the Sheriffe: who by vertue thereof is to impannell a Iury, to enquire, extend, and apprehend as well the Body, as the Lands, Goods, and Chattels of the party so bounden.

And when they be so extended into the Kings hands; the Sheriffe may keepe them vntill you bring him a *Deliberate*, which you are to haue

haue from one of the Clerkes of the *Petty-Bagge*.

Note alſo, that it concernes you to take good heed how you ſue out this *Deliberate*. For if there be not ſufficient eſtate or goods extended, wherewith to ſue your *Statute*, and you ſue your *Deliberate* of theſe Lands and Goods &c. extended you ſhall neuer haue more then was firſt extended, and deliuered.

Wherefore if you doe underſtand or can conceiue that there be more Lands or Goods, extendible in any other place elſewhere, you are to get them likewiſe to be extended, and when you haue ſufficient, to ſue out your *Deliberate*, then you are to deliuer up your *Statute*, before you haue your ſaid Writ, becauſe otherwiſe the Clerke of the *Petty-Bagge*, will make you no deliberate at all.

The way how to ſue foorth a Writ of Supplicauit, *whereby the partie ſued ſhall not bee releaſed till the partie grieued pleaſe.*

FIrſt, you muſt take your corporall Oath before a Maſter of the *Chancerie*, that you doe not deſire it for any Malice, Hatred, or Enuy to the party: but for your owne quietneſſe and ſafety; Whereupon you ſhall haue a Warrant to lead your ſaid *Supplicauit*, and thereuppon conſequently the Writ it ſelfe, ſo ſoone as the ſame may be written and ſealed.

After you haue the ſame granted, you may ſue out of the *Chancery* a Writ of *Certiorare*, which you ſhould vſe in this manner, (*viz.*) When you haue delivered your *Supplicauit* to haue a Warrant thereupon for the arreſting of the perſon ſued, and haue got him likewiſe arreſted, you muſt keepe your *Certiorare* very ſecret and unknowne vnto him, till hee haue put in Bond or Recognizance thereupon, with Suerties (as the caſe requires.)

For if hee take notice of it, Then hee will lye in priſon vntill hee haue procured a *Super-*

ſedeas,

ſedeas vnto your *Supplicauit*, which if he doe, your *Certiorare* is of no force or vſe. Wherefore it concernes you to haue care herein.

And when the party is Arreſted, and hath put in Suerties to the Sheriffe or Iuſtice, who granted the Warrant vpon the Writ; And the party hath giuen Bond with Suerties; Then doe you deliuer your ſaid *Certiorare* vnto them that tooke the Bond, And thereupon they are tyed to certifie the ſame vp accordingly.

So conſequently ſhall he ſtand bounden in ſuch manner, vntill you pleaſe of your owne accord to releaſe him.

This hath beene a practice very frequent heretofore. And yet it appeareth by an eſpeciall order made of purpoſe to obuiate this courſe, which Order I haue before recited in theſe Collections, There was both care and prouiſion taken for redreſſe and reformation in this perticular caſe.

Inſtructions how to ſue forth a Superſedeas *vpon the former Writ of* Supplicauit, *or the like Writ.*

FOr that it cannot bee knowne but by ſearch and expeence to the party againſt whom the Writ for *Peace* or good *Behauiour* is ſued foorth, In what Court the ſame is ſo ſued,

vntill he be arreſted for the moſt part; whether it bee out of the *Chancerie*, or the *Kings Bench*: wherefore to avoyd that euill of being bound, Hee may ſue foorth and haue his *Superſedeas* euer in readineſſe about him, if hee ſuſpect any ſuch practice bee intended againſt him (as aforeſaid.)

The *Superſedeas* muſt be ſued forth thus,(*viz.*)

You ſhall rather in the *Chancery*, then on the *Kings Bench* ſide, enter into Bond with Sureties *gratis*, with condition that you ſhall keepe the Kings peace, or bee of the good behauiour, during ſuch time as for which you ſhall ſo binde your ſelfe, and as the occaſion ſhall require: For if you ſuſpect that your Aduerſary will haue the Writ onely to binde you to the Peace, then a *Superſedeas* will ſerue onely for the Peace; if for the good behauiour, then your *Superſedeas* muſt bee for the good behauiour; if both, for both.

When you haue ſo bound your ſelfe with Sureties; or Sureties in your abſence haue ſo vndertaken(as your *Manucaptors*)for you before a Maſter of the *Chancerie*, You may haue Warrant, And vpon the Warrant, your Writ of *Superſedeas*, ſo ſoone as the ſame may be written and ſealed.

And for your better eaſe, and direction in any of theſe caſes of ſuing foorth a *Supplicauit* or *Superſedeas*: enquire for, and addreſſe your ſelfe to the proper Clerke of the *Supplicauit* Office, which is euer kept in or nere vnto *Chancery Lane*,

and

and at this inſtant, at the *Raine-bow* neere to the Inner Temple gate.

I doe aduiſe you to ſue forth your *Superſedeas*, rather out of the *Chancery* then the *Kings Bench*, for theſe reaſons, (*viz.*)

The Condition of your Bond in *Chancery* doth not tye you to make any appearance at the determination of your time limited for peace or behauiour, But in the *Kings* Bench it doth.

And if you doe not appeare there accordingly, your bond is duely eſtreated, & now more ſtrictly proſecuted then euer heretofore.

Beſides, if you doe appeare according to the condition of your Bond, there is then a great charge which falls upon you of courſe, for the withdrawing of your Bond, which dyes in *Chancery*, or at leaſt it requires no retraction there.

Beſides, the *Superſedeas* is in ſome caſe more potent, beeing taken out of the *Chancerie*, then out of the *Kings Bench*; For notwithſtanding the Writ to binde bee taken out of the *Chancerie*, and beare *Teſt* before, yet the *Superſedeas* out of the *Chancerie*, is ſufficient againſt it howſoeuer: But I make queſtion whether the *Superſedeas* of the *Kings Bench*, will ouer rule the *Supplicavit* of the *Chancerie* bearing date before it, or no? I am perſwaded (and as I remember) I haue met the experience of the priuiledge of *Prioritie* in the *Chancerie* Writ in this Kind: Neuertheleſſe I leaue it to the farther conſideration of him

that

that desires to buy a farther experience with farther expence herein.

Note also, that you may haue your *Supersedeas* to supercede one, or more, or all persons whatsoeuer at your owne election.

And so much for Writs of Peace and Behauiour.

FOr the Amplitude of this Court, you shall note, that it extendeth it selfe into a larger dimension then *Smiths Common-wealth* does demonstrate, both in limnes and liuely hood: especially in those two members of it, (*viz.*) the *Petty-Bagge* and *Confiterie*; in both which, what Booke doth scent it ouermuch.

For besides Offices *post mortem*, which is onely attributes to the *Petty-Bagge*: This office hath.

The making out of all Writs of *Summons* to the Parliament:

All Latine Pleadings of the *Chancerie*, concerning the Question of any Patent or other thing whatsoeuer which passeth the great Seale:

Or whatsoeuer priuate Deed betweene Subiects, which is acknowledged in *Chancerie*, before the Lord *Keeper*, the Master of the Rolles, or any the Masters of *Chancery*.

With Statutes and *Recognizances* taken in this Court:

Or transmitted hither.

With

With all ſuites for, or againſt any perſon priuiledged in the *Chancery*.

Beſides, it is a hand whereby to tranſmit diuers things from the *Riding* Clerke and the Inrolement Office, to the Chappell of the Rolls.

And briefly, it hath ſuch variety of buſineſſe, that the place requires more learning and ability of Clerkeſhip then any other office, ſaue that of *Prothonotaries* of the *Common-Pleas* onely (in my opinion.)

And for the *Curſitors* of the *Chancerie*, They make both the originall Writs of the *Chancerie*, and of the *Common-Pleas*: The Originals of which Court of *Common-Pleas*, I referre to the ptoper place, where I ſhall haue more occaſion to ſperke of them hereafter.

Theſe *Curſitors* were incorporated by *Queene Elizabeth*, by the name of the foure and twenty *Curſitors*: amongſt whom, the buſineſſe of the ſeuerall Shires is ſeuerally diſtributed, and therefore you muſt, in all caſes where your ſuite is locall and tyed, to the certaine County, addreſſe your ſelfe to the proper *Curſitor* of the ſame.

If any ſuite depend before any Sheriffe in his Tourne or County Court, you may haue a Writ of *Chancerie* from the *Curſitor* of that County; cclled a *Recordare*, to remoue it.

If it lye in a Court Baron, your *Curſitor* will call it away with an *Accedas ad curiam*.

If it lye in Towne Corporate, hee will re-

moue it with a *Certiorare* returnable in *Chancery* (as aforesaid,) which may bee made of course, without any Bill exhibited.

And a *Procedendo* may be made also presently thereupon, before the Returne of the said *Certiorare*, and that of course likewise.

And also a second *Certiorare* and a second *Procedendo* thereupon may be made, But the second *Procedendo* should be vpon a Bill exhibited, shewing good cause of equity why the Complainant should be relieued.

And vpon Bond giuen by the Complainant or some other for him, with condition that the Complainant shall prooue the contents of the sayd Bill, the Court of *Chancerie* doth often grant a *speciall Certiorare*, signed with the hands eyther of the Lord *Keeper*, or of the Master of the Rolles for the time being.

And the condition of this last recited Bond, giues the Obligor onely the liberty of fourteene dayes to proue the contents of the Bill, which fourteene dayes must commence from the date of the returne of the said *Certiorare* to be granted, (as aforesaid.)

THE

The Fees of proceeding in Chancerie *follow.*

	l.	s.	d.
Sub Pœna Writ to answere	0	2	6
If there be three in the *Sub pœna*, you pay sixe pence the more.	*tot.* 0	3	4

This *Sub Pœna* may be serued in any libertie whatsoeuer, So cannot an Attachment.

The charge of drawing your Bil in the next which your counsaile at Law, must doe according to the Instruction which you shal giue him o the true estate of the cause. His Fee is at the least	0	10	0
For the engrossing of your said bill foure pence a sheet at the least	0	0	4 *a sheete.*
The Copy *inde*, two pence a sheete at the least	0	0	2 *a sheet.*
The Attournyes Fee when you put it in, which is for the whole Terme,	0	3	4
The writing of the Oath made that the *Sub pœna* was serued,	0	0	6
The Oath.	0	0	4
The Attachmennt where the Defendant appeareth not.	0	2	10

	l.	s.	d.
The breaking of it up with the Sheriffe.	0	2	0
The Returne of that Attachment.	0	0	4
The Proclamation of Allegeance vpon the ſame.	0	2	10
The breaking of it vp with the Sheriffe.	0	2	0
The Returne of that Proclamation.	0	0	4
The Commiſſion of Rebellion.	0	18	2
The *Rule* which the complainant gives to the Defendant to make anſwere by a certaine day, in caſe where the Defendant doth appeare.	0	0	4
The Attachment, The Proclamation, Commiſſion of Rebellion.	For not anſwering, as in caſe for not Appearing.		*as aforeſaid.*
The Defendants Appearance.	0	4	4
This is alſo his Attournies Fee for the whole Terme,	0		*Fees. Attourn.*
The copy of the Bill, at eight pence the ſheete.			*Eight pence the ſheete.*
His Counſailes Fee for drawing of his Anſwere according to his direction at the leaſt.	0	10	6

For

	l.	s.	d.
For engroſſing of this anſwer; at foure pence the ſheete at the leaſt.	0		*foure pence a ſheete.*
For Copy of this anſwere, at two pence the ſheet at the leaſt.	0		*two pence a ſheete.*
For the Oath made that this anſwere is true.	0	0	4
For euery Defendant 4.d. *pro conſimil*		0	0 — 4 *quilibet Def. pro conſimil.*
For the Commiſſion to take the Anſwere in the Country by *Dedimus Poteſtatem.*	0	7	10
Beſides the engroſſing of the bil which is included within it.	*euery ſheete inde,*		6. d.
The *Sub Pœna* for Coſts, giuen to the Defendant, in caſe where the complainant doth not put in his Bill within the time allowed.	0	2	6
For a Bill of Coſts and entry of it *inde,*	0	1	4
The *Attachment, Proclamation,* and *Commiſsion* of *Rebellion.*	*as in caſe aforeſaid.*		
A Ioynt *Commiſsion* to examine Witneſſes in the Country, *per* peece.	0	7	10
A *commiſsion ex parte,* to examine witneſſes in the Country.	*The partie beares both parts of the charge.*		

	l.	s.	d.
For examination of the first Witneſſe here before Examiners.	0	2	6
For euery witneſſe examined afterwards.	0	2	6
For drawing of the *Replication*, if it be done by Counſell, as in caſe for the Bill.	*as for the Bill.*		
For the *Reioynder*.	0	*the like.*	
If there be no new matter in the *Replication* of the *Reioynder*, your Attournies Clerk will draw them for you of courſe, for ſome ſmall matter.	*as you can agree.*		
For the Copies of the Depoſitions of any Witneſſes returned by Commiſſion.	*euery ſheete,* 0	0	8
For a Motion in Court.	*Counſaile Fee.*		
For the drawing of the Order thereupon *cum Cop.*	*euery ſide,* 0	3	0
For entring of the Order.	*euery ſide.*	6.	d.

Fees

Fees of an Iniunction follow.

	l.	s.	d.
INiunction in all *vijs & modis.*	1	2	6

Fees of a Decree follow.

FOr a Decree the Drawing &c.	*as in case of an order.*		
Sub pœna to Testifie.	0	2	6
Sub pœna to *Reioyne.*	0	2	6
Sub pœna to heare *Iudgement:*	0	2	6
For getting the *Hearing* to be set downe.	0	*as you can agree with your Attorney.*	
For the *Rules* to publish the witnesses, being foure.	*per* piece	0	4
For copy of *Replication, Reioynder, Rebutter,* and *Surrebutter,* as for copy of Bill or Answere.	*as aforesaid for Bill and answere.*		
Sub pœna super ordinem, to shew cause.	0	7	0
Sub pœna of *Duces tecum,*	0	7	2
Sub pœna de executione ordinis	0	10	0

The charge of a Supplicauit in Chancerie.

	l.	s.	d.
Item, the Oath. ——	0	0	4
Item, the *Supplicauit* it selfe. -	0	5	6
Item, the warrant vpon it, *vic.*	0	2	0
Item, or the *Certiorare* to certifie the Bond taken vpon it. -	0	2	6

Charge of a Superfedeas in Chancerie.

TO the Master of the *Chancerie* for taking of his Baile. -	0	2	0
For the Warrant. ——	0	2	0
For the writ. ——	0	5	6
For the allowance of it. ——	0	2	0

These sayd Fees be onely of the case of a single person, and for the peace onely.

But if it be of more persons, or for behauiour, as well as the Peace, then the charge is accordingly enlarged.

THE

The Fees of all Originall Writs sealed in the Chancerie.

A

	l.	s.	d.
Accedas ad curiam.	0	2	7
Admensuratio pasture.	0	5	8
Ad quod Dammum,	0	7	2
Annual. reddit.	0	1	6
Assis. Cumq; general.	0	5	6
Attinct.	0	7	6
Audita querela.	0	7	2

C

Certiorare.	0	1	6
Cessavit.	0	2	6
Conspiracy.	0	5	6
Contentione.	0	2	6
Coronatur. elegend.	0	7	2
Cui in vita.	0	2	6
Cur claudend.	0	2	6
Comperuit.	0	2	6
Sum. bre. de Covenant.	0	2	6

		l.	s.	d.
D				
Dem. Clamit extremum,		0	2	6
Dedimus Poteſtatem ſuper bre de. Con Dat.		0	2	6
Special. Dedimus poteſtatem,		0	7	2
Original. de Debt & detinew,		0	1	0
E				
Ieſſione firme,		0	2	6
Eſſione Cuſtod.		0	2	6
Excommunicat. Capiend.		0	7	6
Execut in De.		0	2	6
Expenc. nullat.		0	7	2
Error in London.		0	7	2
Patent inde		0	7	2
Elegit.		0	10	0
F				
Alſo Indicio.		0	2	6
For fac. Maritag.		0	12	6
Forma Donationis.		0	2	6
H				
Hered. Capt.		0	2	6
Con. Repleg.		0	5	6

L

	l.	s.	d.
Eprosi. amouendo.	0	5	6
Libertat. proband.	0	5	6
Libertat. allocand.	0	7	2

M

Moderat.	0	2	6
Maintenand.	0	2	6
Minus.	0	2	6
Monstrauerunt.	0	5	6
Mittimus.	0	2	6
Mandamus.	0	7	2

N

Nocunt.	0	2	6
Non molestand.	0	2	6
Non omittas.	0	5	6
Non Ponend in Assisa.	0	7	2

O

Officiar. non faciend.	0	5	6
Ordinar. non seruiend.	0	2	6

P

Pacis fract.	0		
Partic. faciend.	0	2	
Paten. bre. de errore corrigend. in Assis. attinct.	0	7	2

	l.	s.	d.
Pleg acquietand.	0	2	6
Pone.	0	2	6
Perambulat faciend.	0	5	6
Palibus reparand.	0	2	6
Post desseisin.	0	2	6
Precipe in Cur.	0	2	6
Procedend.	0	2	6
Prohibition.	0	2	6
Propriat proband.	0	7	6

R

Recte clauf.	0	2	2
Recte patent.	0	2	6
Reaisseisin.	0	7	2
Reparatio Pontium &c arum domini.	0	2	6
Repleg. Originali.	0	1	6
Rescous	0	2	6
Recordare.	0	2	6

STV

Significauit.	0	7	2
Sbre. de essat.	0	2	6
Sub pœna.	0	2	6
Supersed. inde.	0	7	2
Supersed. pro pace.	0	5	6
Supersed. omn. al.	0	5	6
Transf.	0	1	0

Transf.

	l.	s.	d.
Transf. super caſum.	0	2	6
Valore Maritagij.	0	2	6
Vaſc.	0	2	6
Villat remouend.	0	2	2
Vitar. eligend.	0	2	2

W

Warrantia charta.	0	2	6
Warrantia Diei,	0	5	6
Witbernam.	8	5	6

And ſo much of the Original Writs iſſuing out of the *Chancerie.*

I Muſt acknowledge that I haue omitted the Records enrolled in the Chappell, and thoſe that are either in the hand of the *Controler* of the *Seale* and riding Clerke, or elſe in the middle of their iourney, trauelling ouer to the Chappell; becauſe they are an homogeneall part of my former *Tractate*, touching Direction for *Search of Record*, which I ſhall by (Gods aſſiſtance) both perfect and amplifie with my beſt and firſt opportunity hereafter. And as I haue alſo omitted a ſmall colation which I haue made out of the *Petty-Bagge* and other places, of the ſeuerall Stiles of all Townes Corporate in *England* and *Wales*, according to their ſeuerall Patents of Incorporation; with the Stiles of all

other Miniſters of any Courts, to the which any Attourney may haue occaſion to direct his Writs of *Habeas Corpus*, and the like in any occaſion; Becauſe this laſt will be a Booke of ſuch continuall vſe vnto them, that it is onely fit to be publiſhed by it ſelfe in ſuch a ſmall Volume: doe likewiſe intend to ſet it forth as a little Cockbote, to this greater Veſſell, very ſpeedily, it being already finiſhed.

And thus I conclude with the Court of Chancery, reſerving the Fines payable vpon originall Writs, to the practice of the Court of Common-pleas, becauſe they beſt know the price of them.

Si nihil attuleris ibis Homere foras

THE

THE COVRT OF REQVESTS:

OR,

White-Hall at Westminster.



His is likewise a Court of Conscience and Equitie. And the practice thereof is by English Bill, Answere, Replication, and Reioynder, like to the former in *Chancery.*

The forme of their proceeding is generally alike.

Onely, This Court, in stead of the leading Writ of *Subpœna*, vseth a *Priuy Seale*:

Or

Or otherwiſe to ſummon ſuch as are neerer hand, by their Meſſenger and proper Officer of the Court.

Their Fees in the point of proceeding are for the moſt part alike.

Onely in ſtead of two ſhillings ſixe pence for Summons by *Sub pœna*, you pay at the leaſt for Summons by *Priuy Seale*.

8.s.

Or if the Summons be made by the Meſſenger here in towne, you pay to him for his paines. 3 s 4 d.

For euery party ſummoned, — the like

Beſides for his Warrant to do it, what you pleaſe as I take it. } *ad libitum.*

This great burden at the very entrance into a Suite here, doth much hinder the Court, if they would duely conſider it.

And ſo much for the Court of *Requeſt*.

THE

THE MARSHAL-SEY OR VERGE COURT.

It hath anciently beene used in the Court holden before the Earle Marshall of *England*, and is

in use at this day, in matters of weight; for the [illegible] or his Procurator [illegible] ell or Petition [illegible] wed, and then to haue his Writ of Summons to the party Defendant, sealed with the Seale of the Court, to appeare at a certaine time and place, and shewed or left at the place of abode of the Defendant, as in case of a *Sub Pœna* in *Chancerie*.

The Verge Court now most in our regard, is that which is vsually kept euery Friday in the Borough of Southwarke.

The Iudges that commonly sitting there, are the Knight Marshall, the Steward, or Deputie Iudge.

The Proceedings in this Court, is by Capias or Attachment, which is to bee serued upon the Defendant, by one of the Knight Marshals men, who taketh such

such Bayle of them for their appearance at the next Court, as they like of. And these Proces are to be had at such all places within the liberty of the Verge, appointed by the Steward, for ease and readyneſſe of the parties, which every Miniſter of the Court or Marſhals-man can direct you to.

The firſt Court day, the Plaintiffe is to put in his Declaration, and the next Court day, the Defendant is to put in his Anſwere.

The Plaintiffe may require Pledges in Court, of the Defendant for to abide the Iudgment of the Court, which if the Defendant doth not doe; the Plaintiffe may haue the Bond, which the Marſhals-man tooke for his Appearance aſſigned over to him.

In foure Court dayes, commonly
hard your Actions come to Tryall, so
the Proceedings of this Court is very
quicke, and much of the quality of
Hundred Courts, or other inferiour
Courts.

The Actions tryed there, are of
Debt, Trespasse, Battery, Trouer, &c.

The Fees of this Court I haue here
set downe, as they are inserted in the
Letters Patents.

The Ordinary Fees of the Verge Court to bee payd by the Plaintiffe.

	l.	s.	d.
Imprimis, for euery Writ or Precept of *Capias*, or Attachment, to the Steward and Marshall. —	0	1	0
To the Prothonotary for writing the Writ. —	0	0	2
To the Marshals-man for executing or seruing it. —	0	1	4
The Attourneys Fee vpon euery Declaration of Issue, *Venire facias*, & *Habeas Corpora Iuratorum*. —	0	1	8
For the Warrant of Attourney. —	0	[illegible]	4

	l.	s.	d.
For euery Declaration, and entry thereof to the Clerks.	0	1	0
For the Fee of the Court vpon euery Declaration of Iſſue, and knowledge of ſatisfaction to the Steward and Marſhall.	0	1	4
For the annexing and filing of euery Declaration and entry of euery Satisfaction.	0	0	8
To the Prothonotary for entring of euery iſſue verdict and iudgement.	0	1	0
The Cryers Fee vpon euery iſſue.	0	0	4

For

	l.	s.	d.
For euery Writ of *Venire facias, Habeas Corpora, Distringas Iuratores*, And for euery other Writ of Exception and others.	0	1	8
To the Prothonotarie for writing of euery of them.	0	0	4
For the returne of euery one of them to the Prothonotary.	0	1	0
To the Marshals man for executing euery *Venire Facias*.	0	1	0
For the executing of the *Habeas Corpora & Distringas Iuratores*, to the Marshals man.	0	1	6

To

	l.	s.	d.
To the Cryer for warning the Iury.	0	0	6
For euery Verdict and Iudgment thereupon to the Steward and Marshall.	0	2	4
To the Marshals man for keeping the Iury.	0	1	0
To euery Counsellor at Law for his Fee.	0	1	0
To the Cryer for Proclamation of euery Iury.	0	0	6
To the Attourneys Clerke for euery Bill of Costs.	0	0	3

The

The ordinary Fees to bee payd by the Defendant.

	l.	s.	d.
FOr the Knight Marshals Fee vpon euery Arrest.	0	3	6
To the Prothonotary thereupon:	0	0	10
To the keeper of the Prison thereupon.	0	0	4
To the turne-key thereupon.	0	0	4
For euery Baile in Court and euery Lil. to the Steward and Marshall.		1	4
To the Prothonotary for entring euery Bayle.	0	0	5
To the Keeper of the Prison thereupon.	0	0	1

For the Attourneyes Fee vpon euery Lil. of iſſue *Venire facias & Habeas corpora Iuratorum.* } 0 — 1 — 0

For the Copy of euery Declaration to the Prothonotary. } 0 — 1 — 8

For euery iſſue on the Defendants part to the Steward and Marſhall. } 0 — 1 — 4

For euery Warrant of Attourney for the Defendant, thereupon to the Prothonotary. } 0 — 0 — 4

Accidentall Fees.

FOr euery Rule of Court to the Prothonotary. } 0 — 0 — 4

To the Keeper of the Priſon thereupon. } 0 — 0 — 1

For

For the drawing of euery Declaration, Plea, Replication, Rejoynder, Surrejoynder, *Moratur in Lege*, for euery sheet to the Prothonotaries Clerke. —— o — o — 4

For the Inrolement thereof to the Prothonotary for euery sheet. o — o — 8

For euery Writ of *Subpœna*, to the Steward and Marshall. o — 1 — o

For the writing thereof, and of euery *Decem Tales*, and of euery *Retraxit*, to the Prothonotary. —— o — o — 6

For the allowing of euery Writ of Procedendo to the Steward and Marshall. —— o — 1 — 8

	l.	s.	d.
For the entry thereof and of euery continuation and for the assigning of an Obligation for appearance on Record, to the Prothonotary.		0	8
For executing of euery Writ of *Scire facias* to the Cryer.		0	5
For the Copy of euery Record to the Prothonotary for euery sheet thereof.		0	4
To the Cryer vpon euery *non Pros.*		0	4
For euery *Venire facias Habeas Corpora*, or *Distringas Iuratores*, to the Steward & Marshall.		0	8
For writing thereof to the Prothonotary.		0	4
For executing thereof to the Cryer.		2	0

For

For the returne thereof to the Prothonotary. 0 1 0

For the custody of the Iurors therof to the Cryer. 0 1 0

For euery *non Prof.* and euery allowance of euery Writ of *Habeas Corpus*, Writ of Priuiledge, *Supersedeas*, and euery other such like Writ to the Steward and Marshall. 0 1 8

For the entry of euery one of them on Record to the Prothonotary. 0 0 8

For the returne of euery such Writ to the Steward and Marshal. 0 1 4

For writing of the Returne thereof for euery Action to the Prothonotary. 0 1 0

For the allowance of euerie Writ of error to the Steward and Marshall.	0	1	8
To the Prothonotary for entry thereof.	0	2	0
For euer Writ of *Supersedeas.*	0	2	6
For certifying of Records, to the Prothonotary for the writing of euery Roll of Parchment thereof.	0	6	8
For Correction of euery prisoner in Execution to the Keeper of the prison,	0	1	6
For the Prothonotaries Clerks fee thereupon.	0	1	6
To the Turn-key therupon.	0	1	4
For the Prothonotaries Clerks fee for the Entry of the Cause of Suite and Release of euery prisoner,	0	0	4

Vpon euery Obligation of apparance of the prisoner to the said Clerke. ——— } o — o — 6

Amerciaments due to the King in the said Court.

OF euerie Defendant } o — 1 — o
for denying his Act. }

Of euery plaintiffe *pro falso Clamore.* } o — o — 6

For euery Defendant } o — 1 — o
in *Misericordia.* }

Of euery party *sum-* } o — o — 6
cape penes Curiam, for }
his fine to the King. }

The Oath of the Deputie Iudge.

YOu shall sweare that you shall well and faithfully execute the Office of Iudge, in the Court of the Verge of his Maiesties most honourable Houshold, as Deputie to the right honourable WILLIAM Earle of *Pembroke*, Lord Steward of his Maiesties honourable Houshold Iudge of the said Court, and therein you shall iustly (according to your best learning and knowledge) administer Iustice to the people so helpe you GOD.

THE

THE COVRT OF THE PROVINCIALL COVNCELL OF THE Marches of Wales.

THis Court of the Provincial Counceil for the Marches of Wales, holds the like forme of proceeding generally and for the moſt part, as doth the Chancerie before mentioned.

The greateſt differenee is in the Leading Proceſſe of the ſame.

And therefore, I ſhall not need to reeite the ſame thing againe, but proceed in

THE COVRT OF THE PROVINCIALL Councell, eſtabliſhed at YORKE.

THis Prouinciall Councell followes the courſe of proceeding likewiſe vſed in *Chancerie*.

And for your better direction, that you may vnderſtand the Lords Preſidents Powers and priuiledges, in eyther of the two Prouinciall places, I referre you to their Inſtructions remaining on Record in the *Chancerie*, whereby you may bee fully ſatisfied in this point, &c.

The greateſt difference heere likewiſe is in the Leading proceſſe.

And both the Prouinciall Councels are often ſubiect to the Prohibitions of the Courts at *Weſtminſter*, which makes many of both Iuriſdictions choſe rather to begin their Suites there, then at their owne home.

THE

THE COVRTS OF THE County Pallatine of CHESTER: Countie Pallatine of *Lancaſter*; Countie Pallatine *Dureſme*: AND The *Chancerie* of LONDON; with the *Exchequer-Chamber* Weſtm.

IN the formalitie of their proceeding they doe all imitate the practice of the Chancerie, *before ſet forth and declared, admitting onely ſome ſmall mixture of the Common Law in ſome ſpeciall Caſes.*

And in ſome things they are led by their proper Cuſtomes and preſcriptions reſpectively:

So that hee who is a ſufficient practitioner in our great Chancerie, *may bee able and worthy the admiſſion into any Court of Engliſh proceeding whatſoever or whereſoever.*

I make the next gradation to Courts of Common Law; And both for mine owne eaſe, and the

benefite of the Reader, I will beginne at the Court of Common-Pleas, *as the onely Leader to all other Courts, for all kinde of matters appertaining to the Common Law; Otherwise, if I did begin with the* Kings-Bench, *for the prioritie and dignity thereof, I should runne into this inconvenience, that I must bee forced to repeate the same thing over againe in personall Actions, and mixt actions; both which the* Kings-Bench *admitteth and holdeth, &c.*

THE

THE COMMON-PLEAS PRACTICE.

FIRST, you are to vnderſtand of what nature the Action which you would ſue to bee.

If it bee for Debt vpon a Bond, you muſt take a ſpeciall care that your Originall doe agree with the Bond; For otherwiſe your proceeding will bee erronious.

And you muſt make them agree thus: (*viz.*)

London: *Precipe Rico. Scot. nuper de London generoſ.* (*alias Dict.*) As in the Bond *literatim*; and in the ſame wordes and Letters as the partie ſued is ſtyled and titled in the Bond. *Re. Thom. Smith* twenty pound, &c.

If it bee an Action of Treſpaſſe, Or an action vpon the Caſe; Then you muſt ſtyle and title the Defendant whom you ſue thus: (*viz.*)

London: *Si Thomas Smith Fec. &c Tunc pone, &c. Ricard. Scot. in London generoſ oſtenſ. quare*

cum, &c. without any *alias* at all required, to be in ſuch actions.

When you haue made this note of direction, for the drawing vp of your Originall and leading Writ, you muſt deliuer it to the *Chancerie* man, which is the *Curſitor* for the Shire where you lay the action, to make this your Originall Writ, and to get the ſame ſealed.

This Originall being ſo made, ſealed and deliuered vnto you, your ſelfe may returne, except the Defendant whom you ſue bee a Free-holder of the Shire, where you lay your action.

If the Defendant be a Free-holder in the Shire where the action is laid: then you muſt deliuer your Originall to the Sheriffe of the Shire to returne it.

If the Sheriffe doe returne the Defendant ſufficient: then ſoone after the ſaid Returne, when the Originall is fyled, the Plaintiffes Attourney muſt goe to the Office of the *Philizer* of the ſaid Countie, and there ſearch and bee ſatisfied whether any Attourney hath appeared for the Defendant or no:

If the Plaintiffes Attourney doe find that the Defendant appeareth, the Plaintiffes Attourney (if he can) or otherwiſe ſome one Clerke of the *Prothonotaries* Office whom hee may procure, muſt draw vp his Declaration againſt the Defendant, for which purpoſe the ſayd Clerke muſt haue the Bond, and take out the Writ into the

the *Prothonotaries* Remembrance, and alſo muſt know where the Plaintiffes Attourney will haue the Obligation to be laid for the *Reinde.*

When the Declaration is deliuered to the Defendants Attourney: the Attourney or Clerke for the Plaintiffe, is vpon demaund to ſhew to him the Obligation it ſelfe, to the end that hee may examine the Declaration with the ſame, and ſee and take notice of the Witneſſes names, who doe teſtifie it.

In like manner are you to proceed in an action of Debt vppon an Indenture, or debt due by Teſtament, or Letters of Adminiſtration, you muſt vpon the Declaration and demaund made, ſhew the Indenture, the Teſtament, or letters of Adminiſtration as the caſe is, that they may bee conferred together.

And in an action of Debt vppon an Indenture the Originall muſt bee made to agree with the Indenture, as in caſe of an action of Debt vppon Bond, in the ſecond addition, or the *alias dict. vt ſupra.*

The Attourney of the Defendant may, when the appearance is made for his Clyent, haue Coſts, and diſmiſſe the Plaintiffe, if hee doe not declare within his time prefixed.

When the Defendant hath appeared, and the Plaintiffe hath declared, and thereupon the Defendant hath anſwered, or pleaded, Hee may giue to the Plaintiffe a day to Reply:

Which

Which if the Plaintiffe do not accordingly, Then the Defendants Attourney may diſcontinue the Action of the Plaintiffe, and make him to begin a new.

And if the Defendant be returned ſufficient, and no Attourney appeareth for him vppon the Originall: Then the Plaintiffes Attourney muſt put his name to the *Philizers* booke, called the *Remembrance*, where the *Originall* ſhall bee taken out: And marke the ſame *Remembrance*, when his next Proceſſe which is a *Pone* ſhall be returnable.

This next Proceſſe he muſt ſeale and deliuer to the Sheriffe.

And if at the day of the Returne thereof, no attourney doe appeare for the Defendant. Then the Plaintiffes Attourney muſt in like manner marke the Remembrance, and take out another Writ againſt him called a *Diſtreſſe*, and ſo the Plaintiffe may ſue out *Diſtreſſe* after *Diſtreſſe*, vntill ſuch time as the Defendant doth appeare.

And if the Sheriffe ſhall returne ſuch ſmall iſſues for fauour, as whereby the Defendant is encouraged to ſtand out, and will not appeare: Then the Plaintiffes Attourney himſelfe may moue the Court for increaſe of *Iſſues*, or elſe Amerce the Sheriffe.

If the Defendant haue no Free-hold within the Shire where hee is ſued: The Plaintiffes Attourney muſt returne the Originall

Writ

Writ in Debt or Treſpaſſe on the back-ſide thus: (*viz.*)

Pleg. de proſequendo.
I. Doo,
Rich. Roo.

Infra nominat *Richardus Scot*, Nihil habet in baliua mea vnde poteſt Summ.

Iohannes Smith, *mile vic.*

IF the Originall bee in the treſpaſſe vpon the Caſe, Returne it (as aboue) ſauing in ſtead of *vnde poteſt Summ.* let it be *vnde poteſt Attach.*

The Returne of the ordinary proceſſe of *Capias* to the *Exigent*, is *Infra nominatus* Richardus Scot, *non eſt inuentus in baliua mea.*

There muſt bee alwayes betweene the *Teſte* of the Originall, and the Returne thereof, full fifteene dayes *incluſis*, at the leaſt.

And ſo of the *Cap. alias Cap.* and *plur. Cap.*

And betweene the *Teſte* and the returne of euery *Exigent*, there muſt be fiue Counry Court dayes, or fiue dayes of the Muſtings, as is vſuall in this kind of buſineſſe.

The *Exigent* and *Proclamation* muſt both bee the ſame *Teſte* and the ſame Returne.

An *Exigent* in the Countrey hath fiue County dayes for his Returne (the County Court being kept onely once in a Moneth) and ſo conſeqnently it requireth fiue Moneths.

But in the Huſtings in London, the Returne is much ſpeedier.

And if the Defendant do not appeare by *Superſedias* before the fifth County day, or day of Huſtings (as the *Exigent* lyeth) then he is, vpon the fifth Exact. returned vtlawed.

You muſt haue a care withall that vpon the Returne of the *Plur. Cap.* precedent, it bee duely filed.

At the going forth of the *Exigent*, you muſt make your Warrant of Attourney on this manner, (*viz.*) *Willielmus Wild generoſus, Pl. polo. ſuo: I. T. verſ. Ioh. Fludd de Branford in Com. prad. Yeom. de plas. debit.* or *de plac. tranſſ.* as the action is: This you muſt deliuer to the Clerke of the Warrants.

The Defendants Attourney is to put in his warrant of Attourney vppon the *Iſſue*, or vppon the *Demurrer*, and not before.

If the Sheriffe haue the *Capias*, *alias Cap.* and *Plur. Cap.* deliuered unto him and ſhall returne a *Capi Corpus* vpon any of them, then the Plaintiffe ſhall haue no farther Proces againſt the Defendant.

If

If vpon any ſuch Returne no Appearance ſhall bee made on the defendants part, then the Plaintiffes Attourney muſt goe to the *Philozers* or the *Prothonotaries*, and get the ſame Writ or the Returne thereof taken out; And then giue to the Sheriffe Day to bring in the body of the Defendant, or elſe be amerced at the diſcretion of the Iudges.

And if the Sheriffe doe not bring in his priſoner by the day giuen, then the Plaintiffes Attourney is to get the Amerciament to be *Eſtreated*; And to ſue out a Writ of *Habeas Corpus* to bring in the body of the priſoner.

And if the Sheriffe who did ſo arreſt the Defendant, be out of his office before hee doe returne your ſaid *Habeas Corpus*, and the Defendant appeareth not yet; then you are to ſue foorth *Diſtringas nuper vic.*

The *Philozer* vppon making out of the firſt *Capias*, enters into the Role an *Appoſen*, So that it may appeare vpon Record: which *Appoſen* the Plaintiffe may continue for a Terme, two, or more if he pleaſe.

And their Common Proceſſe muſt haue at the leaſt fifteene dayes betweene their *Teſte* and Returne:

If Proces remaine vncontinued by diuers Termes, and no exceptions bee made thereof by the Defendant; the ſame may bee continued by the Plaintiffes Attourney, paying to the *Philozer*

lozer or his Clerke for euery continuance, foure pence *per* peice

And if the Defendant do dwell in one County, and the Suite bee commenced in another; Then there muſt goe forth a Proclamation vnto the Sheriffe of the County where the Defendant doth dwell at the time when the *Exigent* is awarded; And this Proclamation muſt beare *Teſte* and Returne with the *Exigent*, and both muſt be returned (the Defendant not appearing.)

And if the Defendant doe put in *Superſedias* before the returne of the *Exigent*, than the Plaintiffe neede not care for the Returne of the Proclamation.

And if the Defendants Attourney come not to the *Prothonotaries* Clerke, and take a Copie of the Declaration, and make an anſwere to the ſame within nine dayes after the Returne of the *Exigent*; Iudgment ſhall be awarded againſt the Defendant.

And if the Plaintiffe do not make his Declaration ready within foure dayes after the returne of the *Exigent*, Then the Defendant may call the Plaintiffe *non Suite* and recouer his Charges.

And if the Defendant will haue a *Superſedias* vppon *Maine-priſe*, It muſt bee ſued out of the Clerke of the Treaſury his Office vpon Sureties, That if the Defendant make default, he ſhall pay the fine.

If

If the Sheriffe returne to ſmall *Iſſues* vppon *Diſtreſſe*, the Plaintiffe may haue *Amerciament* againſt him, and haue him called into the Court to amend the *Iſſues* for the Kings aduantage.

If the Plaintiffe be not ready to Reply vpon pleading, Hee may enter *Imparlance*, and giue day over vntill the next Terme, vnleſſe the Defendants Attourney preuent him, by giuing to him a Rule and day certaine to Reply.

At the day of *Imparlance*, The Plaintiffe is to call the Defendant, and to giue him a day to plead or anſwere againe, or to make it knowne, whether hee will ſtand to the Plea or Anſwere which he made in the precedent Terme or no?

And if the Defendant doe neither make knowne, that he will then ſtand to his former anſwere, nor anſwere *de nouo* vppon ordinarie dayes giuen vnto him, He ſhall be condemned in the Cauſe: for he cannot then refuſe as he might vpon an *Alias*.

When any matter is pleaded to an *Iſſue*, The Plaintiffes Attourney muſt haue a care to ſee the *Iſſues* be rightly entered into the *Prothonotaries Role*, And thereupon put in his Warrant of Attourney, if it bee not in before at the *Exigent*, in manner (as aforeſaid.)

But it is moſt requiſit that the Warrant ſhould be put in vppon the *Exigent* by the Plaintiffes Attourney, for feare leaſt the Defendant ſhould not appeare; but be returned vtlawed.

And the Defendant, in caſe the Plaintiffe ſhall faile to put in his Warrant (as aforeſaid) may ſue error in the proceeding, and aſſigne the want of a Warrant, which is manifeſt error; and thereupon the Plaintiffes attourney ſhall pay tenne pounds.

After the iſſue is entered, the Plaintiffe may ſue forth *Venire facias*, or elſe continue it for a Terme or two.

And uppon the Plaintiffes default by ouerlong delay, the Defendants attourney may ſue forth *Venire fac.* pannell.

Note, that you may enter the firſt *Ven. fac.* returned fifteene dayes after; at which day, the Writ of *Niſi Prius*, with the *Hab. Corp.* is alſo awarded, and the Triall likewiſe (if it bee in London.)

After verdict vppon Triall, the *Poſtea* is returnable in his due time.

Thereupon the Iudgment is entered, and a *Capias* goeth forth firſt into London, becauſe the action is layd in London: This *Capias* is to be returned fifteene dayes after *Non eſt inuentus*; and then goeth forth *Capias* with *Teſtat.* into the Country where the Defendant dwelleth then is Execution ſued out, and not before.

Note alſo, that if the Sheriffe at the day of the *Ven. fac.* doe returne the ſame ſued, then the Plaintiffes atttourney may haue a *Hab. Corp.* thereuppon to be made by the Clerke of the Iuries, which

which hee is to ſee well examined when h fetcheth the ſame away from thence.

And at the Returne of the ſaid *Hab. Corp.* if it be at the Aſſizes, and the Iury fill not at the calling of them, the Plaintiffes Attourney may craue a *Decem tales et circumſtantibus*, Ten the like of thoſe that be ſtanding by, to fill vp the Iury.

But if it be at the *Common pleas* Barre, He may not craue a *Tales de Circumſtantibus*, but a *Tales* onely, or ſue a *Diſtreſſe* with a *Tales*.

The firſt onely is a *Decem Tales* at the Barre: The ſecond, an *Octo Tales*, if the *Decem* did not fill; So from *Octo* vnto *Quinto*: and from *Quinto* to *Duo Tales*, he muſt deſcend till the Iury be filled, all which the ſaid proceſſe muſt bee taken out of the *Prothonotaries* Office, or the Office of the Clerke of the Iuries, which bee reſpectiuely entered moſt duely.

And if the Sheriffe vpon any of theſe ſayd VVrits doe returne *Tardè*, for want of ſufficient time to warne the Iury, You are to ſue forth an *Al. diſtreſſe*.

Note that if a *Plea* bee pleaded here by the Defendant, and the Plaintiffe haue therevpon replyed: if it bee a plea of a former Terme, the defendant can neuer amend or with-draw his plea, except it bee in Letters or Syllabes, But if it be in the ſame Terme he may.

For in this Court euery plea is, or ought to bee

be entred in euery Terme as it is pleaded, howſoeuer it is otherwiſe in the *Kings Bench.*

If the Defendant be returned *ſufficient* in an action of Treſpaſſe, A *Diſtreſſe* is to be awarded.

And if he be returned *Nihil*: then the ſeuerall *Cap.*: and an exigent be awarded.

If an *Vtlary* bee turned, then lyeth a *Capias vtlagant*, generall, which is for the body onely.

Or elſe a *Cap. vtlagat.* ſpeciall; which is for the body and goods.

Note, that if you doe ſue any of the Nobilitie of the Land, who are of the Parliament Houſe, in any action whatſoeuer, wherein Proceſſe of *Vtlary* lyeth; Although the Sheriffe returne him *Nihil habet*, yet you may not ſue a *Capias* againſt him, but a *Pone*, into the Shiere where his Land lyeth: whereupon if he doe not appeare, he looſeth fiue pounds. And after a *Pone*, you ſhall ſue a *Diſtreſſe*, and *Diſtreſſe* after *Diſtreſſe*, *in infinitum*, vntill he doth appeare.

If after the Sheriffe haue taken the defendant vpon a *Cap. ad ſatisfaciend.* for the Plaintiffe, He ſuffer him to depart vpon Sureties, or pawne, and commit him not to ſafe keeping, it ſhall be ſaid an eſcape againſt the Sheriffe.

And then the Plaintiffe may at his election chooſe whether he will call for the Returne of the Writ, or ſue the Sheriffe for the Eſcape, and recouer his Debt and Charges againſt him: Otherwiſe, hee may haue his *Capias* and *Exigent*, and

and vpon the Returne thereof vtlaw the Defendant vpon the Iudgement.

After this kinde of *Vtlary*, the Defendant ſhall neuer haue his pardon, except he firſt agree with the Plaintiffe, and ſatisfie him.

Alſo the Plaintiffe may at his election haue a Writ of *Elegit* in this caſe, to extend vpon halfe the Lands and goods of the Defendant: except Cattle and Oxen for his plough, &c.

But it behoueth the Plaintiffe to take good heed how hee ſueth foorth the ſaid Writ of *Elegit*: For if it bee once entered, you ſhall neuer haue any other Execution.

Alſo after a Iudgement, the Plaintiffe may haue an Execution of *Fieri facias de bonis & catallis*, and thereby leauey his whole ſumme that is giuen, with the Coſts, or ſome part thereof, according to the value of the goods of the Defendants which hee can finde.

And if at the firſt he be not ſatisfied of his whole ſumme, he may ſue foorth another *Fieri fac.* and ſo one after another, till he be fully ſatisfied of his whole Debt.

Your Proceſſe being in a Writ of *Reſcous*, and *Rauiſhment of a Ward*, as in Treſpaſſe you ſhall hold like proceedings of *Attach.* and *Diſtreſſe*, and for want of *Diſtreſſe*, three *Capias* and an *Exigent*.

The like in a *Quare eiecit infra terminum*, & *Eiectione firmæ*, and this was giuen by a late ſtatute

And the like by the ſame Statute, in a Writ of *Annuitie* and Couenant vppon an Indenture.

But in a Writ of *Entry*, the like proceeding is not, for the Proceſſe is *Grand Cape* and *Petit Cape.*

The *Grand Cape* lieth, when any of thoſe Writs are deliuered to the Sheriff to ſommõ the Lands, and, if at the returne of the ſame, the Defendant appeareth not, but maketh default, then the *Prothonotaries* Clerke is to giue a day to the tenant to come in, or elſe a *Grand Cape* ſhall be awarded of the Land, whereuppon he ſhall be in the courteſie of the Court, whether they will grant him a *Superſedias* for the diſcharge of the ſame, or no. Otherwiſe he is to wage his Law, and depoſe that he was not lawfully ſummoned, which if he doe, and it be afterwards proued that hee was lawfully ſummoned, then hee is in danger of periury.

If the Tenant or Defendant doe not appeare vpon the *Grand Cape*, then a *Petit Cape* is to goe forth, and a day likewiſe to be further giuen, and vpon default of appearance, then the Lands in queſtion are recouered, and thereuppon the *Cape*, is directed to the Sheriffe to ſeaze the Lands into the Kings hands, vntill farther Proces, &c.

Note that the Defendant is to take great care, that there be no *Eſſoyne* caſt by the Tenants

nants Attourney in this caſe, for him the ſaid Tenant to appeare.

For if hee haue before that time caſt his *Eſſoyne*, then he may vpon day giuen, call the Demandant *non ſuite*, and cauſe him to begin againe.

Therefore the Defendants Attourney in this caſe muſt eſpecially inuigilate the Office of *Eſſoynes*, and in *Reall* action to get his Writ fyled, and to enter a *Recipitur*, as in a Writ of *Dower*.

Warrentia charta, *De droyte*, & *Surdiſſeiſin*, haue the like proceeding, becauſe their Proceſſe is alſo alike.

If you haue Iudgement in any action, and ſuffer the Iudgement to continue without doing of any thing therein, by the ſpace of a yeare and a day, you ſhall then be forced by reaſon of ſuch delay, before you may take out any execution thereupon, to ſue out of the Court where your ſaid Iudgment is Recorded, a Writ of *Scire facias*, and after the returne thereof you are to giue a day to the Defendant to come into the Court, and to ſhew cauſe why the Iudgment ſhould not be awarded againſt him vpon his default; whereupon if good cauſe be not ſhewed, the Iudgement is to be allowed, and execution may be taken forth.

In caſe where the Plaintiffe or Defendant happen to dye after Iudgment and before exe-

cution. Then are the Executors or Administrators of the Plaintiffe to sue out a Writ of *Scire facias*, against the Defendant, his Executors, or Administrators, which being returned, then the Execution of *Fieri facias* at the first, and in case where the Defendant is dead, must bee awarded onely of the goods of the Testator or Defendant defunct, and not of the goods of the Executor or Administrator.

This execution of *Fieri facias*, being deliuered to the Sheriffe to be Executed, if the Sheriffe shall finde that the Executor or Administrator did deuast the goods of the Testator or Defendant defunct; and shall thereupon returne a *Diuastauit*, Then shall a Writ of *Fieri facias* be awarded *de propriis bonis Testatoris*, or *Administratoris*; Or otherwise, Execution may bee taken forth against the body of the Executor or Administrator, at the choyce of him that sueth it out.

How to sue a matter of Errour

IF you would sue a matter of *Errour*, you must either make a perfect true Copie of the Originall, or of the *Exigent* in that cause, and carry it to the *Cursitor* of that Shiere, where the Action lyeth, thereby to make your Writ of *Errour*.

When

When you haue your Writ of *Errour* (if it be before Indgement) you may deliuer it to the Clerke of the Treaſurie, whereupon the Attourney for the Plaintiffe is to deliuer vnto you the number of the Roles where euery thing is entered.

And if it be after Iudgement, Then before you know the number of the Roles, you muſt ſhew cauſe of *Errour* to the Court; or elſe your Writ will not be allowed.

And in caſe that when the Writ bee alowed, the Plaintiffes attourney muſt deliuer the number of the Roles, to the Clerke of the Treaſury: who will deliuer the Writ ouer with the Record.

And then if the Defendants attourney doe not get his Record to be certified the ſame Terme, the Plaintiffes attourney may procure a day to bee giuen in Court vnto him to doe it, and to remoue the ſame.

By which day if the Defendant doth it not accordingly, then hath he loſt the benefit of the *Errour*: And after one Writ of *Errour* ſo put by, the Defendant ſhall neuer haue any more.

And if the Record bee accordingly certified, then the next Terme following you are to aſſigne the *Errours* there.

Otherwiſe there ſhall goe forth two Writs of *Scire fac.* to be deliuered to the Sheriffe of *Midd.* and to giue you warning to aſſigne the *Errours*,

which if you doe not within three or foure dayes after the Returne of the latter of the ſayd two Writs, the Writ of *Errour* will be quaſht, and you ſhall loſe the benefit thereof.

And if one be vlawed vpon meane Proceſſe and would reuerſe the ſame by Writ of *Errour*, hee muſt take this courſe: (*viz.*)

Looke if there be any Writ vnreturned,
Of any Writ miſ-returned:
Of any Writ vnfiled:
Whether the *Proclamation* be fyled, or no?
And whether it be well returned:
Or whether a Warrant of Attourney be put in or no?

All theſe before mentioned be *Errours*, which before Iudgment the Court will correct themſelues.

And if you find any of the ſayd *Errours*, you muſt goe to the Clerke, and ſhew him the number Role where the *Exigent* is entred, and cauſe him to enter the *Vtlary*.

This being done, you are then to get the Bundles where any ſuch Writ is fyled, to be brought into the Court, from the Office of *Cuſtos brevium*, where they be kept.

Then you muſt haue one to enforme the Court therefore on your behalfe.

If the *Errour* which you pretend be for want of a Proclamation, then you are to get aſwell the Record

Record of the Terme where the *Exigent* is entred as the bundle of Writs to be brought into the Court to be reviewed.

And the like you are to doe of the meane Proceſſe.

And if it ſhall appeare to the Court, That any of the Proceſſe be filed and not returned, Or there be error in the Returne, Or there be want of meane Proceſſe, or Proclamation, the Court will award the *Reuerſer* to be entred.

And if the party vclawed can finde no Error, and yet would vndoe the vtlarie, if it be vtlary before a Iudgment; he is to ſue out his Writ of Errour, and thereupon a *Superſedeas*.

Then he muſt ſue out his pardon of Courſe, and vppon that, He may haue a *Scire facias* directed to the Sheriffe of the County where the Originall was laid, to giue warning to the Plaintiffe to be ready in Court to proſecute the action againſt the Defendant, if he haue any thing to charge him withall.

Hereupon, if the Plaintiffe doe not declare againſt him the Defendant within a certaine ſpace giuen to him by the Court, Then the Defendant ſhall be quit of that action; and the Plaintiffe is to beginne his ſuite againe if he will.

But if the party vtlawed haue any goods or Cattle taken by colour of that vtlary; Then hee is to ſue out a writ *de non moleſtando* from the Clerke of the Treaſury, which writ he is to deliuer

liuer to the Sheriffe; Whereupon the Sheriffe is to deliuer to him his goods or Cattle againe without Bond.

But it is otherwiſe where the Defendant doth not bring his Writ *de non moleſtando*. but intends to ouerthrow all by Errour, for in that caſe hee ſhall be driuen to enter into Bond for the proouing of the Errour.

In euery caſe where the cauſe goeth with the Plaintiffe vpon a *Demurrer*, and the Debt or matter recouered is not expreſſed, the Iudges of the Court may giue their finall Iudgement, and grant you a Writ to enquire of dammages; which Writ ſhall be directed and deliuered to the Sheriffe, who by vertue thereof, is to impannell a Iurie, who after they be ſworne, vpon Euidence to bee produced on the Plaintiffes part, may giue in damages ſo much as they thinke in their conſciences, and as the Witneſſes ſhall proue vpon their Oath that he hath ſuſtained.

Alſo in an Action of waſte you are to proceede in like ſort, if you certifie the Iudges how the Defendant hath made the place waſte, and you doe it before Iudgment is by them giuen.

But the Iury needeth not to haue ſuch great care of the dammages in waſte committed, as in other caſes of enquirie in that kind: For whatſoeuer the Iurie giues in dammages therein, the Court will, according to the Statute in that caſe eſpecially prouided, double the ſame dammages.

And

The Plaintiffes Attourney muſt bee carefull to looke to the Clerke of the Eſſoynes, and take heede where the Eſſoynes doe lye, and whether they be lawfully caſt, or no.

And not onely ſo, but the Attourney for the Plaintiffe or Demandant muſt farther looke to the Adiournying of the Eſſoynes, and the caſting of the *Ne recipiatur* for the aduantage of his Client.

And the Attourney for the Defendant ſhould alſo bee as watchfull ouer the caſting of the Eſſoynes; For that oftentimes it proues to bee a benefit to himſelfe, and a commodity to his Clyent.

Euery Eſſoyne muſt be adiourned in time, with ſuch ſufficient continuance as the nature of the action requireth.

For want of Adiournement of the Eſſoyne, there lyeth a *Non-ſuite*.

The caſting of an Eſſoyne where it will not lye, may be diſallowed, quaſhed, and turned into a default: But when it is rightly caſt, then is it allowed, and then it is to be adiourned.

And you muſt farther take heed, where the inferiour Tenant may pray in ayde of the Superiour Lord, and when, and in what caſe a Vowcher lyeth to recouer by force.

If Baſterdy bee alleadged in generall in any caſe, the Proceſſe for the tryall of it is to be directed to the Biſhoppe, who is to certifie the ſame.

The like courſe is to be held in *Pleas* of Aduowſon, whether *Plenaritie* or not *Plenaritie* to bee ſo tryed, and ſo certified likewiſe.

What *Pleas* Attournies may plead, and what not.

To a Bond for payment of money
- 1. *Conditions performed:*
- 2. *Per Minas.*
- 3. *Per Dures.*
- 4. *Non eſt fact.* { *Gener.* / *Speci.*

To the Bill of Debt, plead ----
- *Per Minas.*
- *Per Dures impriſon.*
- *Deins age.*
- *Non eſt fact.* { *Generall.* / *Speciall.*

To any other Actions of Debt, plead --
- *Nihil debet per Patriam.*
- *Nil debet per Legem.*
- *Deins age.* (So it be not for Apparell.

To a Bond for deliuery of Corne, &c. plead --
- *Per Dures.*
- *Per Minas.*
- *Non eſt factum.*
- *Deins age.*
- *Conditions performed.*

The Common iſſues to *Declarations* grounded vpon *Simple* actions be — { *Per Legem:* or, *Per Patriam.*

To a Bond for performance of Couenants vpon an Indenture or an Arbitriment, may be (pleaded { *Per Minas.* *Per Duress.* *Non eſt factum:* or, At large.

To an action of Treſpaſſe you may plead — { *Non Cul.* or, At large: if it bee not vpon triall of a Title.

To an action of Batterie, plead — { *Ex inſultu querentis:* or, *Non Cul.*

To an Action for Rent, plead - { *Rien in arrere.*

To an action of the Caſe vpon *Aſſumpſit*, plead — { *Non Aſſumpſit modo & formâ.*

To an action for Slander, &c. plead { *Non Cul.* or, Iuſtifie the words.

To an action for detayning of Corne, or any thing which ſhould haue beene deliuered, and for which there is no Obligation, plead —— { *Non detinet.*

Vpon *Eiectment*, — { *Non Eiecit.* *Non Cul.*

Vpon Accompt, — { *Nunques Receptor pour Account rendre.*

Vpon Administration, — *Plenè Administrauit.*

Vpon a Demise, —— *Non demisit.*

All which Pleas before-mentioned are generall, & ad oppositum.

THe generall issue { in an *Assize*, is, *Nul. Disseisin.* / *Nul. Disseisin,* —

All speciall Pleas heere are pleaded vnder the hand of one of the *Sergeants* at Law.

No Attourney or Clerke of any *Prothonotaries* Office shall make vp any Paper booke, whereunto any Sergeants hand is, vnlesse hee doe first deliuer the same vnto the Defendant to bee perused, to whom hee may giue day to bring in the same Booke againe, that it may bee entred in conuenient time, and if the Defendant doe not bring it in accordingly, the Attourney or *Prothonotaries* Clerke, who dealeth therin for the Plaintiffe, may enter a Iudgement thereupon.

The Plaintiffes Attourney shall doe well to request the *Prothonotarie* of the Office to peruse the whole issue drawne into a Paper, before hee carry it to his Sergeant, to the end the *Prothonotarie* may see whether it bee well pleaded or no; without

without double matter, or departing from any ſpeciall pleading, and whether it bee truely ioyned or no, according to the truth of the matter or caſe; Or elſe it will bee ieopardy and hazzard of the cauſe: For the Iury are bound not onely to finde out according to the iſſue ioyned, and no otherwiſe.

If the Defendants Attourney will ſuffer the Action to goe againſt his Clyent by a *Nihil dicit*, Hee muſt take heede that there bee no part of the debt payd: For if hee doe, his Client is in his Aduerſaries courteſie for the whole debt, wherein the danger is the more if it bee vpon a Bond; For then he is lyable to the penalty and all.

A Title may be tryed vpon an action of *Tranſtantum*. But that ſuite doth award no poſſeſſion, but dammages and coſts of ſuite onely.

But it is otherwiſe in *Tranſ.* and *Ejectione firme.*

If your goods be remaining in another mans hands, and hee doe not vſe them, ſo that there can bee no conuerſion to his owne vſe proued; there an action of *Trouer* will not lye, but an action of *detinew.*

If you doubt, before you appeare for the Defendant, that you wall bee compelled to plead ſooner then you ſhall be prouided of inſtructions for the purpoſe; It is beſt for you in ſuch extremity to chooſe the leſſer euill, and to ſuffer an A-

merciament for not appearing.

Or if it may bee had, it were beſt to imparle, *per licentiam inter loquendi*, ouer vntill the next Terme.

In the continuing of an iſſue, you for the Plaintiffe muſt take heede you giue not away your benefit to the Defendant, and hee Summon by *Proviſo vt ſupra.*

If vpon any tryall, at the calling of the Iury, either Attourney ſhall thinke the Iury to bee fauourable, and not indifferently returned by the Sheriffe, or his Miniſters, hee that is aggrieued may deſire to haue it tryed and examined, And ſo if cauſe bee, the pannell ſhall be quaſhed, and the *Venire facias* ſhall bee directed to the *Coroner* of the Shire.

If neede bee, you may except againſt any of the Iury, for that hee is not a ſufficient Freeholder, &c.

And there may bee foure of the Iury, ſuch as you hold to bee moſt indifferent, choſen by the Iuſtices of the Bench for Tryers, in caſe you ſhall except againſt the Iury.

And if any of the Iury be excepted againſt, or Challenged for ſome ſpeciall combination or matter contriued betweene the Sheriffe and them, or the Sheriffes miniſters and them: That ſhall not bee tryed by the Iury of the Pannell, but by them that the Iury wil appoint, or by confeſſion of the Sheriffe, or his Miniſters.

And

And ſuch things as ſhall bee aleadged and obiected for matter of fauour to the one partie or the other; and the challenge ſhall bee tryed by certaine Tryers of the pannell, (*viz.*) by men that are ſworne, and not challenged vpon their Oathes, and the tryall ſhall bee in this manner following, (*viz.*)

If any principall cauſe of Challenge ſhall bee to any of the Iury; it ſhall not bee made, vntill he be called to be ſworne.

Such cauſe of Challenge may bee, for that hee is a Tenant, a Kinſman, or otherwiſe tyed to be fauourable more to the one party then the other.

Then ſhall the ſaid Tryers goe together and conſider of the matter, and finde whether hee bee a Tenant, or a Kinſman, or ſo tyed by ſpeciall Bond to the party for whom he is challenged or no.

And the Tryers ſhall find it either vpon their owne knowledge, or ſufficient proofe, and not otherwiſe.

And the Iury ſhall not ſay, that the partie ſo found is fauourable, but that he is a Tenant or a Kinſman, or ſo, and the Law ſhall iudge and thinke him fauourable.

And ſo for all other principall challenges.

And ſo if the whole Iury bee Challenged at the Barre, by the one partie, or the other (as oftentimes they bee) they ſhall be tryed *ſigillatim*,

tim, and other Tryers bee called forth to try the former ones, in their turne; and ſo to proceed *viciſsim* till they be all tryed.

The manner how to proceed in the Triall of the iſſue.

THe Plaintiffes Attourney ſhall doe well to haue the whole Record, and Rules thereunto belonging in readineſſe, with all things pertinent thereunto, which hee muſt get to bee read and recited vnto the Iurie; And for the eaſe of the Iurie, the iſſue whereof they are to enquire, muſt be truly and plainely deliuered vnto them.

And after this is ſo read, and deliuered (as aforeſaid) the Plaintiffes Attourney may write in a paper the iſſue, and giue it to the Iury, that they may know what they are to enquire of; prouided, hee giue it to them before they depart from the Barre.

After the Record is read, the Counſaile are to ſay what they can for their Clyents, ſeuerally and reſpectiuely.

Then the Witneſſes in the matter are to bee produced, ſworne and examined at the Barre, what they can ſay to the queſtion in iſſue.

And

And when the Iury hath heard both parties, and the opinion of the Court (if it neede, for explanation of matter of Law) they are then to depart from the Barre, and the Court appoints and ſweares one of purpoſe, that hee ſhall ſafely keepe the ſaid Iury, ſo that none of them ſhall depart from the other till they bee agreed: and that no other perſon who is not of the ſaid Iury, ſhall in the meane time ſpeake with any of them, nor come among them, vnleſſe it ſhall bee ſuch an one as the Court ſhall appoint to read the Euidences to the Iury, in caſe where none of them can read themſelues.

If the virdict paſſe with you, you are to pray Iudgment, returne your *Poſtea*, to make vp a Bill of the coſts and charges of your Client expended in this cauſe, to carry your ſaid Bill to the *Prothonotarie*, in whoſe Office the cauſe is entred, to aſſeſſe your ſaid coſts and expences, which being done, you take out what Execution you pleaſe preſently; Or otherwiſe, vtlaw the Defendant vpon that Iudgement, as you ſhall be aduiſed.

Inſtructions to ſue forth a Recouery.

IN a *Recouery* in a Writ of *Entry* in the *Poſt*, the Attourney who ſueth it forth, muſt take good aduice in the drawing of his Writ of *Entry*, hee is to carry it to the *Chancery* man to make it.

And the Attourney muſt take with him, either his Clyent, or ſome other perſon who knoweth the Land, and get him ſworne before one of the Maſters of the *Chancery* for the true value of the Land, and what it is worth by the yeare.

Then muſt the value be ſet downe on the back-ſide of the Writ, and the name of the Maſter of the *Chancery*, who tooke the Oath thereunto.

Next, this Attourney muſt carry it to the Kings Attourneys Clerke, who is appoynted for the ſame purpoſe to get his Maſters hand vnto it.

But before you haue your Writ againe from hence, your Clyent, or ſome other for him, muſt enter into a Recognizance to the King in ſuch manner, as Maſter Attourney Generall his Clerke ſhall draw vp and make for you. And the ſaid Clerke is to carry your Clyent, or other party, who is ſo to enter into Recognizance to the Court of *Common-pleas*, to acknowledge the ſame before the Iudges there.

The

The effect and condition of the ſaid Recognizance is, that thoſe Lands ſpecified in the Writ, are not holden to *Capite*, and that the Recouery is not hurtfull to his Maieſty, nor his ſucceſſors.

And if the Lands bee holden in *Capite*, you muſt take courſe before you ſue out your Writ of *Entry*, for licenſe in that behalfe; otherwiſe you ſhall runne into a great inconuenience, and bee forced afterwards to ſue out your Pardon in this behalfe.

After your Writ of *Entry* is paſſed through the Kings Attourneis hand, then if the Tenants of the Land will appeare in proper perſon, Your Writ of *Entry* with the Returne thereof, muſt bee taken out into one of the *Prothonotaries* Remembrances, where you will haue your Recouery entred.

And then in the Margent of the Remembrance make the appearance of him who is vouched.

And this being done, deliuer your writ to one Serieant, and the Remembrance to another, when the Court is at good and fitting leaſure.

Note withall, that if this bee done with a *ſingle Vowcher*, you are to retaine three Sergeants; and if it bee to bee done with a *Double Vowcher*, you are to retaine fiue Serieants.

And when it is acknowledged, then you are to giue the Writ of *Entry* to the Clerke of the

Office that ſhall enter it, and he will thereupon enter your Recouery, and make you an Exemplification, and a Writ of *Seiſin* in the ſame Terme.

But if the Tenants doe not appeare in proper perſon at the Barre but by Attourney, then you ſhall not get your Writ of Recouery to be fully finiſhed the firſt Terme; but you muſt haue a *Summ*, entred againſt the Tenants, and a Writ of *Seiſin* awarded.

And it behoueth the attourney for the Demandant to be circumſpect, both for the Returne of the Writ of *Entry* and *Seiſin*, and for the filing of them, as alſo for the Warrants of attourney on both ſides, For otherwiſe by default or omiſſion in any of them, the Recouery may bee ouerthrowne againe.

And for farther and more aſſurance in this kind, it hath beene therefore vſed, that they haue exemplified both the Writ of *Entry* and *Seiſin*, with the Returnes thereof, and the Warrants of attourney, for feare leaſt afterwards any of them ſhould be mis-filed or mis-carried.

And if you would ſearch for any Recouery acknowledged long before, you muſt firſt find it with the Clerke of the Warrants.

THE

The order to ſue forth a Fyne.

FIrſt draw the *precipe* in ſheetes of Paper, and Engroſſe the Concord in Parchment: Then get your writ of Couenant made vp, by the *Curſitor* of the Shire where the Land lyeth, according to Concord.

And if the knowledge bee to bee taken by ſpeciall *Dedimus poteſtatem*, then you muſt deliuer to the *Curſitor* the Commiſſioners names that are to take the Knowledge; Of which Commiſſioners one muſt bee a Knight, and the *Curſitor* is to make vp the *Dedimus poteſtatem* by the Concord, &c.

Then get your Writ ſealed, and deliuer it to the Commiſſioners, with the *Concord* ingroſſed in Parchment, with Seales and Waxe vnto it.

And when your Commiſſioners haue taken the Knowledge, they are to returne the Writ of *Dedimus poteſtatem* thus, (*viz.*)

Executio iſtius Commiſſionis patet in quadam Schedula huic annex.

And file the *Concord* vnto the back ſide of the *Dedimus poteſtatem*, and the Commiſſioners are to ſet their hands and Seales to the *Concord*, and their hands to the *Dedimus*, *&c.*

You shall then proceed with your Writ of Couenant in manner following.

FIrst, you are to goe to the Office, sometimes called, My Lord of *Leicesters* Office in the Inner Temple, because my Lord of *Leicester* had the first grant thereof: and there to compound for the value of the Land, either by Composition, or *affedauit* to bee made before a Doctor who doth attend for the same purpose.

The Fine being set downe by the Officers here, you are to pay it presently to the Receiuer.

Then will the Proper Officers of that Office set their hands to the back side of the Writ.

Then you must returne your Writ of Couenant in this manner (*viz.*)

At the vpper end of the Writ,
Pleg. de prosequend.
Ioh. Doo.
Ric. Roo.

In the middle,
Summ.
Ioh. Den.
Rich. Fen.

At the lower end,
I. M. miles vic. id est, the Sheriffes name of the Shire.

Then

THen carry your Writ of Couenant, *Dedimus poteſtatem*, and Records, to the *Cuſtos brevium* his Office, and there deliuer them to the Clerke, who is for the Shire where the Lands doe lye; and hee will take out into Paper what belongs to him to doe, and indorſe the Writ, ſetting downe when the Proclamation ſhall be made.

Then you muſt carry the Writ of Couenant, *Dedimus poteſtatem*, and Concord vnto the Clerk of the Kings ſiluer, where hee will diſpatch what appertaines to his Office; and where, what you muſt pay, and for what, ſhall appeare in the Calender of Fees hereafter in theſe preſents contained.

And then take and carry all to the *Chirographers*, or the *Cirrographers* (as it is corruptly ſtiled) and deliuer it to him who is Clerke of the Shire where the Land lieth, and he will hereupon make the Indentures of Fyne; For which the Fee ſhall appeare hereafter in his place.

Here note, that the *Dedimus poteſtatem* and the Writ of Couenant, muſt agree in Names, Acres, and place.

And if the Knowledge bee taken before one of the Iuſtices of Aſſize in the Country, then the Iudge ſets his hand to the value of the Lands, vpon Oath taken before him, but it is written in Paper.

And when you come to paſſe your Fyne in

my Lord of *Leicesters* Office, so called (as I said before) because vppon the new erection of it in the dayes of the late good Queene *Elizabeth*, it was conferred vpon him, and was deuised & prouided chiefly to take notice of Alienations, being the proiect of one Mr. *Sutton* of *Lincolnes Inne* (as I take it.) Then you must borrow that Paper of the Iudge of Assize before mentioned, to shew it vnto the Officers here, Or else you shalbe compelled to compound a new for the value of the Lands, &c.

But if the Knowledge be made in open Court, then you must haue the *Precipe* in Parchment, which must bee annexed to the Writ of Couenant, and you must deliuer it vnto the Sergiant at Barre to draw; For which, his Fee shall bee set downe hereafter: and this you may do before you pay your Fyne, by which Knowledging, you saue your Clyent a good part of his charge.

And if it bee Knowledged before my Lord chiefe Iustice of the *Common Pleas* in his Chamber, or in any other place sauing in the Court; then one of his Clerkes will make your *Precipe* & Concord, and write them in Parchment, whereunto he will get my Lords hand.

And then you are to conſute the Writ of Couenant to the Concord, and to passe it through my Lord of *Leicesters* Office, the *Custos brevium* the *Kings siluer*, and the *Chirographer*, as is before set downe.

Note

Note alſo (as I gaue you to vnderſtand before in part) that if the Lands bee holden in *Capite* of the King, then you muſt ſue forth your Licenſe of *Alienation* for your eſtabling in that behalfe: For if you enter into the Lands without Licenſe, the King will haue a Writ of *Intruſion* againſt you for the ſame, and ſo receiue all the maine profits thereof likewiſe, vntill you haue ſued forth your pardon herein, which will bee of as much charge, &c.

How your Licenſe of Alienation *muſt be ſued out.*

FIrſt, you muſt get him who is proper Clerke for the Licences of *Alienation*, to make your *Dockquet*, or, as it is corruptly written your *Docget*, in Paper, which you are to carry to the Office called my Lord of *Leiceſters* Office, or Office for *Alienations*.

At this Office, you muſt compound for the value of the Land, either by Commiſſion or *Affeduit*, and you muſt pay the third part of the value ſeſſed, for a Fine, and that preſently after the Maſter of the *Chancery*, or Doctor who attended for that purpoſe, hath ſet his hand to the *Dockquet*, the Fee for which hand, expect anon.

This being done, your Writ is to bee entred there in the ſame Office.

And then two Clerkes of the Office, to whom it doth appertaine of property, will set their hands to the *Dedquet*, and will afterwards make your Licence of *Alienation*, and get it sealed for you, the seuerall Fees of which seuerall passages, I reserue for their proper Station, &c.

Note that the *Post-fine* of euery Fine knowledged, is as much as you pay in the *Chancery*, and halfe as much more, and if it bee to be leuied by the Sheriffe of the Shire, where the Land lyeth, which did passe by the Fine after Proclamations which is the yeare after the fine is leuied.

The Causes whereupon wager of Law lyeth.

IF any man bee sued vpon a simple Contract.

as,

Vpon Booke:
Vpon *Emisset*, or *Emisit*.
Vpon *Mutuatus* or *Mutauit*.
Vpon *Concessit Soluere*, or *Assumpsit soluere*.
Vpon an *Infimul Computauerunt*.
Vpon a *Detinet*.
Vpon a *Trouer*.

Vpon

Vpon Debt, being not by Obligation of Bill ſigned and ſealed.

In euery of theſe, the Defendant may wage his Law, that is, Hee may diſpoſe that hee oweth the Plaintiffe nothing, and ſo auoid his ſuite.

Wager of Law is to bee done in this wiſe, (*viz.*) that he plead, *Nil debit per legem.*

And ſo hee is to get day ouer vntill the next Terme to doe his Law, Or elſe hee may doe his Law preſently at his owne election.

But if hee deferre the doing of his Law, vntill another Terme; Hee the Defendant muſt haue a care to come in at his day, and doe his Law.

Or if it ſo happen, that hee cannot come in at the time and place appointed, His Attourney muſt remember the time when his Client was to doe his Law, and vpon the ſame day to caſt an *Eſſoyne* for him, or elſe the Plaintiffe will haue Iudgment againſt him by default.

And if the Defendants Attourney doe ſo caſt the *Eſſoyne*, then the Plaintiffes Attourney is to adiourne it, which if hee neglect to doe, the Defendants Attourney may call the Plaintiffe *Nonſuite.*

But if the Plaintiffe doth Adiourne it, then the Defendant is to doe his Law peremptorilie at the day giuen him, or elſe Iudgement ſhall be awarded againſt him by his owne default.

And in caſe where the Attourney for the Defendant doth not caſt his *Eſſoyne*, at the day, for

the benefit of this Clyent, and his Clyent is not ready to doe his Law: Then the Attourney for the Plaintiffe may enter a *Ne recipiatur* with the Clerke of the *Essoynes*, and giue him day in Court to doe his Law very speedily, (*viz.*) within three or foure dayes after; and vpon the Defendants default then, the Plaintiffes Attourney may enter a Iudgement against the Defendant.

Then is the Plaintiffes Attourney to make a *Bill* of his Clyents charges, and get it rated and allowed by the *Prothonotary*, which done, he may make forth Execution against the Defendant, in what sort he shall thinke it best.

When the Defendant commeth in to doe his Law, He is to bring in some of his neighbours, or acquaintance to depose with him in manner following.

Euery of them must make Oath that hee beleeueth, that the Oath which the Defendant taketh and deposeth is true: (Hee the Defendant deposing before them, that hee oweth no such debt to the Plaintiffe, as the Plaintiffe declareth for, nor any part thereof.

And the Defendant should bring with him twelue such neighbours, or acquaintance, compurgators with him, who should all depose in like manner (as aforesaid.)

But there is an Officer here for the case of the subiect, who will furnish the Defendant in this

case

caſe of Wager of Law, with twelue ſuch Compurgators as occaſion ſhall require, for with a leſſe number you cannot wage your Law, &c.

When the Defendant hath his ſaid full number of twelue: then his Attourney is to get the *Prothonotary* to take his Wager of Law.

Then will the Cryer of the Court cauſe the Defendant to ſtand vp at the Barre; and the Iuſtices will examine him, whether he oweth or deteineth the money, or goods, or Chattels, contained in the Declaration, or any part or parcell of the ſame; whereunto the Defendant is to anſwere yea or no.

And if the Defendant depoſeth that hee doth not owe or deteine from him the Plaintiffe the ſame, nor any part or parcell thereof, and the Plaintiffe will ſtand to his action, then is the Defendant quit thereof for euer, and the Plaintiffe looſeth his action.

But if the Plaintiffe will not abide his Oath, intending to charge him otherwiſe afterwards: The Plaintiffe may bee *Non ſuit*, pay the Defendant his coſts, and bee at libertie to begin anew againe at another time, and to lay his action ſo (in ſome caſes) that no wager of Law ſhall lye therein.

Note farther, that a man may wage his Law in diuerſe reall actions:

As,

In Formedowne, or, Formedon,

Indecender, Remainder, or Reuerter.
Waſte,
Warrant ch.
Donat. or
Any Action where Summons lyeth.

For if the Sheriffe returne that hee hath ſummoned, where hee hath not ſummoned, whereupon a *Grand Cape* is awarded; Then, and in ſuch caſe may the Defendant come in and wage his Law that he was not ſummoned, and ſo auoide the *Grand Cap.*

The order to ſue forth a Niſi prius extra.

IF the matter bee pleaded to an iſſue, ſo that it is to bee tryed by *Niſi prius* in London, or in the Countrey: Then muſt the Plaintiffes Attourney, after iſſue is ioyned, ſee the ſame wel entred and examined by the *Prothonotary.*

Then carry the Paper booke to the Clerke of the *Niſi prius*, and hee or ſome Clerke of his is to make vp the Record.

Then let your *Prothonotaries* Clerke make forth your *Venire facias*; which, after it is ſealed, you muſt carry to the Sheriffe of the Shire where the iſſue is ioyned, And cauſe him to return your Iury.

When you haue your Iury, your are to carry it

to

to the Clerke of the Iuries, that hee may therevppon make your *Hab. Corp.* or *Distringas*, which you are to deliuer to the Sheriffe. Then will hee returne it, And make your warrant to warne the Iury, &c.

Then you muſt take your *Hab. Corp.* and the Iuries names beeing filed to the backſide of the Writ, and *Niſi prius*; And deliuer them all together to the Clerke of the Aſſizes, who if you doe therefore giue him ſomething more then the Ordinary Fees, will call the Iury at ſuch time as you ſhall appoint him; Or otherwiſe, you may ſtay long enough.

Aboue all things, be ſure that you inſtruct your Councell ſufficiently in ſuch things as make moſt to proue the iſſue on your party.

And haue your Witneſſe or other proofes in a readineſſe.

If you try your matter in *London*, Then the *Poſtea* commeth in on the morrow after the tryall. And Iudgment is giuen preſently vppon the ſame.

But if the tryall bee in the Countrey at the Aſſizes, Then the *Poſtea* commeth not in till the next Terme following. And then you are to call for your *Poſtea*, and thereupon to ſee that your Iudgment be well entred, &c. (*vt ſupra.*)

Super-

Superſedeas de non Moleſtando.

THis Writ *de Non moleſtando*, is to preuent, or free the bodie or goods of a partie vtlawed from Arreſt: and it is ſued out, to the end the partie vtlawed may haue ſecuritie and ſafetie thereby, in bodie and goods, in the meane time while hee is in reuerſing of the *Vtlary*, whereby to bee finally diſcharged of that euill.

If the Plaintiffe haue tooke out Proceſſe of *Vtlary*, and thereby arreſted the Defendants goods or Bodie: This Writ doth diſcharge them both, or either of them; and if the Sheriffe haue not already made ſale of the goods, and before the Returne of the *Cap vt lagat.* vpon the deliuery of this Writ *de non Moleſtand.* hee muſt returne them againe.

And if the Defendant doe bring his ſaid Writ to the Shriffe, after the returne of the *Cap. Valagat.* is paſt, it is then too late, and then the Sheriffe may chooſe whether he will reſtore the goods againe, or returne them, or the value of them, which muſt bee appraiſed by men indifferent, for the Kings Maieſties beſt behoofe.

And in caſe after the Sheriffe hath ſo taken the goods by *Cap. Vt lagat.* and vppon bringing of

of the Writ *de non moleſtand.* ſhall deliuer back to the Defendant his ſaid goods, he the ſaid Sheriffe is thereupon for his *Indempunity* to take bond of the defendant with ſureties, that if he prove not Errour in the matter, the ſayd goods ſhall not bee made away, but be in readines and forthcomming at all times, and returned, if the Sheriffe ſhall be compelled to reſtore and anſwere them againe.

But if the Defendant ſueth forth his Writ *de non moleſtando*, & have it in a readines about him before that the Sheriffe doth attach his body or goods vpon the Vtlary, then the Sheriffe vpon ſight thereof may not meddle with his body or goods in any wiſe. And ſo much ſhall ſuffice for the Writ *de non moleſtando*, &c.

Note, that all Actions of the *Caſe*, *Debt*, or *Battery* may be laid in what Country you pleaſe, But *Tranſ. Ejectment* and *Waſte* be locall.

The Charge of proceeding in euery seuerall Case, and vpon euery seuerall Processe now followeth.

The Charge of the Originall Writ.

First, for euery Originall Writ of the *Common-Pleas*, being a single Writ.

	l.	s.	d.
In *Debt*, *Transgr.* *Indeb. Assu.* Per piece.	0	1	4
Item, *Post diem*,	0	0	4
Item, for the double Originall Writ of those kindes,	0	1	6
Item, *Post diem*,	0	0	4

Item, for a Fine vpon euery Originall Writ, as followeth, *viz.*

If the Originall exceed Forty pounds, it payeth to the *Cursitor*.	0	0	8
If the Originall bee a hundred pounds, it payes Fine,	0	10	0
And so from aboue forty pound in *infinitum*, the like proportionable Fine,	*With the first proportionably.*		

Item,

	l.	s.	d.
Item, for all Originall Writs, beside the ordinary ones of *Debt, tranſ. inſult.* and the other twelue penny writs, you ſhal pay Fee for making of them, as before is ſet downe in the *Chancery*.		Vide *the charge of Originall Writs in Chancery.*	
Item, the Common *Proces* vpon the originall of *Debt, tranſ.* &c.	0	0	6
Item, the Seale of the common *Proceſſe*.	0	0	7
Item, the Common *Proceſſe*, vpon an Action of the *Caſe*, and other actions of higher nature being moſt of them Reall, and not within the number of thoſe which pay but twelue pence for the Originall.	0	1	0
Item, the Seale.	0	0	7

The ordinary charge to ſue an Vtlary *in a ſingle Writ.*

IN *primis*, The Originall and *Poſt diem*.	0	1	4
Item, the *Capias* and *Seale*,	0	1	5
Item, *poſt diem*.	0	0	4
Item, the *Alias Capias*, and *Seale*, with the *Poſt diem*.	0	1	5

	l.	s.	d.
Item, the Attourneies Fee.	0	3	4
Item, the *Plur Cap* and *Scale*.	0	1	8
Item, the Warrant of Attourny.	0	0	4
Item, the exigent and Seale.	0	1	6
Item, the Proclamation & Seale.	0	1	1
Item, the returne of the *Exigent* for every name.	0	1	0
Item, for fyling the *Exigent* and *Proclamation*.	0	0	8
Item, if it be with a *Post termi-num*, the fyling of the *Exigent* will coſt	0	1	6
Item, the Attournyes Fee.	0	3	4
Item, a generall *Cap. utlegat.* and the Seale thereof.	0	0	11
Item, a ſpeciall *Cap. utlegat.* and the ſeale thereof.	0	2	4
Item, the Attourneyes Fee.	0	3	4

The Charges of a Niſi Prius *in* Guild-Hall *in* London, *taken by default.*

IN primis, The *Venire Facias*.	0	2	7
Item, the Returne thereof.	0	2	0
Item, the *Poſt Diem* of the ſame.	0	0	4
Item, the *Hab. Corp.* and the Seale.	0	1	11
Item, the Returne of it.	0	2	4

Item,

	l.	s.	d.
Item, the Sergeant for warning of the Iurie	0	3	4
For the Copie of the iſſue.	0	1	0
For the Seale of the *Niſi Prius*.	0	2	2
The Lord chiefe Iuſtices Fee for entring the Record into his Booke.	0	11	9
For the reading of the Record	0	1	0
For the Default.	0	2	4
For the Greene Cloth.	0	1	0
For the Keeper of the Hall.	0	1	0
For a *Tales* if the Iury fill not.	0	4	4
To the Iury *per* piece, being of the number in the *Hab: Corp.*	0	0	8
To the reſt that come by *Tales per piece.*	0	0	4
Item, my Lords Footcloth ſervant.	0	1	0
Item, to the Sergeant for keeping of the Iury.	0	1	0
Item, for the Barre-keeper.	0	1	0
Item, to the Cryer.	0	1	0
For every witneſſe ſworne *per* piece.	0	0	4
Item, the Attourneyes Fee.	0	3	4
Item, for your Councels Fee.	*at leaſt* 10. s.		

The charges of a Nisi Prius in the Country.

	l.	s.	d.
IN primis, the *Ven. fac.*	0	2	7
The returne thereof.		*vt supra.*	
The *Post Diem.*		*vt supra.*	
The *Habias Corpora* and Seale,		*vt supra.*	
The Returne of it,		*vt supra.*	
The Bayliffes for warning the Iury,		*vt supra.*	
For ſealing the Record of *Ni. prius*,		*vt supra.*	
The putting in the Record at Aſſizes.	0	15	1
Item, your Counſellers Fee, The Attourneyes Fee,		*vt supra.*	
Where note, that if the Attourney, who is named Attourney vpon the Record, followeth the buſineſſe, you ſhall ſave 4. ſhillings foure pence. But if you uſe any other, you ſhall pay the more	0	4	4
Item, All other things, as Iury, The Bayliffe who keeps the Iury, Cryer, and all other generall and for the moſt part.	0	*vt supra.*	

Fees

Fees belonging to the Prothonotaries, *and their Clerkes.*

	l.	s.	d.
Inprimis, for euery common Declaration, not exceeding the number of twenty lines in the Roll, And the Roll under the number of 700.	0	1	0
Where the Originall and *Capias* are double, the Fees generally vpon the same proceeding, be likewise double here, *Duplex feod.*			
Declaration vpon Account,	0	2	0
Entring of an Issue vpon a *per dures imprisonement, nunques* Executor, or *plene Administravit*,	0	2	4
Also for the Declaration, and for the Iudgement, *similiter.* *similiter.*			
Nunques Receptor pour account rendre pro Q. & Defen.	0	4	2
Fee of the Defendant for euery common Issue,	0	1	0
Fee of the Plaintiffe for Conditions performed, wherein there is no Reioynder,	0	3	8
Of the Defendant for his part except the Bond bee the longer but	0	2	0

Item,

	l.	s.	d.
Item, for every Declaration if it be but twenty lines.	0	1	4
Item, for every sheete more, if it be aboue twenty lines.	0	0	4 *le sheete.*
To the Clerke for copying of the Pleas, and titling for euery sheete.	0	0	4 *for euerie sheete inde.*
The *Imparlance Cop.*	0	1	0
To the *Prothonotary* for euery *Imparlance:*	0	1	0
For the entring of the Conidtion.	0	1	0
In Reall actions, for the Copy of euery sheete.	0	0	8 *le sheete*
Entring of *Non assumpsit* for the Defendant.	0	2	0
For the Plaintiffe, *similiter.*	0	2	0
For euery Replication.	0	0	4
For euery Reioynder,	0	0	8
For entring of euery Bayle.	0	2	0
For entring of *Nihil dicit.*	0	2	4
For the Copy of the same.	0	0	8
If the same containe more then a Roll: Then you pay after the Rate of 6. s. 8. d. for euery Roll more.	0	6	8 *Euery Roll more.*
For euery Iudgment and Satisfaction in Actions Reall.	0	4	0
To the *Prothonotary* for Single *Poucher.*	0	11	6

To

	l.	s.	d.
To the Clerke for entring and Exemplifying, *inde*,	0	4	0
The *Prothonotaries* allowance to the Clerke, *inde*,	0	1	6
For writing and examining of euery exemplification in Writs of Entry vpon *Voucher*, or confession, if it be a double *Voucher*.	0	5	0
To the *Prothonotary*.	0	14	6
The *Prothonotarie* allowes to the Clerke, *inde*,	0	1	6
To the Clerke for entring of euery Roll,	0	0	4
To the *Prothonotarie*, for entring of a Summons.	0	4	6
For the searching of any of the old *Desquets* for euery Terme.	0	0	4
To the *Prothonotary* for a Treble *Voucher*,	0	12	0
To the Clerke for entring and exemplifying, *inde*,	0	5	0

V Fee

Fees belonging to the Philizers of the Common-Pleas.

	l.	s.	d.
IN primis, for euery *Cap.* vpon *Diſtreſſe*, and in Debt, Detinew, Accompt, and Treſpaſſe, of Common Proceſſe.		0	6
For the ſigning thereof.		0	1
Item, for euery *Capias pone*, or *Capias* and *Diſtreſſe* in the common Writ of the ſaid Action.		0	6
For ſigning thereof.		0	1
Item, if any ſuch Writ be of the number of ſixe names.		0	1
Item, for a *Capias Pone*, & *Diſtreſſe*, Sur. Couenant, Annuity, or Action, vpon the Statute, &c.		0	1
Beſides the Seale.			
Item, for euery *Exigent* vppon the Statute, and vppon the Caſe.		0	1
Item, for the Deliuery of a Record.		0	4
Item, if any the aforeſaid Writs bee longer then is vſuall, by reaſon of the number of names, or matter contained in them: Then you are to pay therefore accordingly, and ratably.	*Ratably.*		

Item,

Fees of the Office of Custos Breuium.

	l.	s.	d.
In primis, for search of euery Terme.	0	0	5
Item, for the Copy of the Writ.	0	0	4
Item, for the single bundle.	0	0	1
Item, for the fyling of an *Exigent*, if it be without a *Post terminum*.	0	1	8
Item, for the fyling of any Sheriffes bundle of Writs, so that they come in within three or foure dayes after the first Returne of the Terme.	0	2	6

Note, that by reason of the manifold inconueniences, and abuses which did grow by occasion of the putting in, and receiuing of Writs here after the day; it was ordered and directed by the Court, that no *Original* Writ, or *Plur. Cap.* shall be put in, or received the last day of the Returne vnlesse.

Item, the Bagge-bearer of the *Custos breuium*, ought to bring in the Bundles of Writs of the Terme past, on the first day of the Terme following, to be seene, perused, and vsed by such as haue authority to doe it, and that without paying of any thing for the same.

Duties and Fees belonging to the Treasurie-house.

	l.	s.	d.
In primis, for a Search, when you bring with you the Terme, and Number Roll, And if it be in the Terme time, or before the Doore is shut up.	0	0	4 *every search.*
And if you come to search in the Vacation, after the Doore is shut up, then you pay to the Keeper of the same House for opening the Doore.	0	2	0
And if you search any of the old Termes, Then you must pay for every of the said Termes which you do so search.	0	4	0
Item, the Officers and Attourneys ought to search and see the *Essoines* Rolles and old termes in the Treasury, for their better information and direction in their owne businesse, without paying any Fee at all.	*No Fee in Priviledge.*		
Item, for a *Superseder*, vppon *Main Prise*, which should bee taken (the Defendant being present in person.)	0	2	0

Item,

	l.	s.	d.
Item, a Bill of Baile thereupon,	0	0	4
Item, for writing examination, and certifying *inde*,	0	12	1
Item, for Fees of Rec. of Pardon vpon an Vtlary,	0	6	2
For the certifying of the Record *inde*,	0	2	1
Item, for the Warden of the Fleete *inde*,	0	1	4
Item, for the Clerks paines	0	1	8
Item, the *Siri facias inde*,	0	0	6
Item, the bill of Baile,	0	0	4
Item, for euery *Nisi prius*, so that it exceed not three sheets.	0	2	0
For euery Sheete aboue three.	0	0	4
For the Seale,	0	*vt supra.*	

Fees of the Clerke of the Essoynes follow.

	l.	s.	d.
IN primis, for Enrolling of euery Essoyne,	0	0	6
For euery *Idem dies*,	0	0	4
For euery Adiournment,	0	0	4
For euery Bill of Exception,	0	0	6
For euery *Ne Recipiatur*,	0	0	6

	l.	s.	d.
For euery *Superſedeas* made by the Clerke of the Treaſury,	0	2	4
For euery Copy thereof:	0	0	8
If any Roll be ſpoiled by any of the *Prothonotaries* Clerke, or any other Clerke that doth enter any Roles, then the party that ſo ſpoyleth them, may go to the Office, & get a new one, paying for the ſame.	0	1	0 *a Roll.*
Item, of the Lord chiefe Iuſtice for making and binding of euery Terme, for his Fee, *inde*	0	13	4

The Cryers Fees.

	l.	s.	d.
IN primis for euery verdict, or *Nonſuite* in the Court,	0	0	4
For euery Fine knowledged at the Barre,	0	0	8
For calling, keeping, and ſweating of the Iury:	0	0	4
For euery wager of Law,			
For euery recouery at the Barre.	0	1	0
Item, he ought to haue, of euery Attourney of the ſame Court at the end of euery Terme, which he well deſerueth,	0	0	4 *of euery Attourney.*

The

The charge of the reuersing of an Vtlary followeth.

	l.	s.	d.
IN primis, to the *Exigenter* for the Terme and number Roll,	0	3	4
For a Warrant to enter the Attourney.	0	1	4
For entring of the *Vtlary*.	0	6	8
To the Clerkes that enters it for his paines,	0	1	6
For the Pardon,	2	0	0
For the *Super sedeas*,	0	3	0
For the *Scire facias*, and the Returne, *inde*,	0	2	4
The Attourneyes Fee,	0	8	4
Summa,	3	0	2

Fees belonging to the Clerke of the Vtlaries followeth.

	l.	s.	d.
IN primis, for search of euery Terme,	0	0	4
Item, for a generall *Capias Vtlagat*,	0	2	4
Item, for a speciall *Capias Vtlagatum*.	0	2	4

Item,

	l.	s.	d.
Item, the *Certiorare* vpon it			6
For a Copy and fine		7	10

And for your direction Note, That if you would cause an *Vtlary* to bee certified, which is in the Sheriffes hand: For that the parties are agreed, you must first get a true Copie of the *Exigent*, which you must bring to the Clerke of the *Vtlaries*, and request him to make you a *Certiorare* thereby, directed vnto the Sheriffe of the Shire, where the Defendant is vtlawed. This you are to deliuer vnto the Sheriffe, and hee thereupon must certifie and returne it ouer of force, though the Plaintiffe do not withdraw the *Exigent*.

The charges of trauersing of an Vtlary, and Pardon vpon the same, whereupon you are to proceed in this and other Courts accommodately.

IN primis, the Search of the Number Roll			4
Item, the *Certiorare* out of the *Chauncery* to remoue the Record			6

Item,

	l.	s.	d.
Item, the Clerke of the Treasury of this Court, for removing of the Record.	0	14	1
Item, for drawing of the Pardon,	0	3	4
Item, for engrosing of the Pardon.	0	6	8
Item, for examining of it,	0	1	0
Item, for inrolling of it in the *Chancery*.	0	3	4
Item, for the great Seale.	1	0	6
Item, for the first *Sciri fac.*	0	2	6
Item, the returne thereof.	0	2	0
Item, for entring of the *Vtlary*.	0	0	8
Item, to one of the *Prothonotaries* for allowance of the pardon,	0	2	4
Item, the *Post Diem* of the first *Sciri facias*.	0	0	4
Item, the Copy of the Entry.	0	1	0
Item, to the Clerke of the *Vtlaries* for discharging the same.	0	2	0
Item, the *Supersedeas de non molestando*.	0	2	6
Item, the Attourneyes Fee,	0	3	4
Summe,	3	6	4

The charges of a Recouerie at the Barre.

	l.	s,	d.
Inprimis, the Writ of Entry,	0	2	6
For entring of the Writ of Entry in the alienation Office.	0	0	4
To the Doctor or him that doth attend for the composition,	0	0	4
For indorsing of the Writ:	0	0	6
For fyling of the same,	0	1	0
For fine thereof, according to the value made by deposition of the party...	*As in the Table following hereafter.*		
To the Receiuer.	0	0	6
For the Returne thereof.	0	2	0
To Master Attourney Generall for signing of the Writ.	0	10	0
To the Secondary for making the remembrance.	0	2	0
For a single *Voucher* for three Sergeants,	0	10	0
For a double *Voucher* to foure Sergeants.	0	13	4

If

If there be not ſo many Sergeants at the Barre, at the time of the knowledging of the recouery, whether with ſingle or double *Voucher*, as there ought to be, The *ouer-plus* of the Sergeants due is to be deliuered to the Puiſne one —— } *To the Puiſne le ſurpluſage*

	l.	s.	d.
Juſtice to the Poores Box. —	0	0	6
Pro Iuſtic. Iunioribus, ——	0	2	6
The Common *Voucher.* ——	0	0	4
To the Cryer. ——	0	1	0
To the Keeper. ——	0	0	6
To the *Prothonotarie* for entring a ſingle *Voucher.* ——	0	14	6
To the Clerke for exemplifying of the ſame. ——	0	5	0
For the Seale of the Recouery in greene Wax. ——	0	3	2
The Writ of *Seiſin* and Seale.	0	1	1
The Returne of the *Poſt Diem* thereof. ——	0	2	0
The Warrant of Attourney.	0	0	8
The Attourneyes Fee, ——	0	3	4

And if there be a Writ of Summons awarded, for that the Recouery cannot bee perfected in one Terme, the Attourney may demand another Fee, very reaſonably and juſtificably. —— } Double *Fee, pro Attornato.*

For taking of *Affedavit, pro valore terr.* 0 — 0 — 4

For the Writ of Summons 0 — 2 — 4

For the Returne d. *Poſt diem* 0 — 2 — 0

Summe totall, beſides the Fines, 3 — 6 — 0

The Fines follow *Secundum ratum & Conſuetudinem.*

Value of

Land,			*Payeth.*	*Rate,*		
l.	s.	d.		l.	s.	d.
3	6	8		0	6	8
5	6	8		0	10	0
7	13	4		0	13	0
8	13	4		0	16	8
The Land of yearely value of 11	0	0		1	0	0
12	0	0		1	3	4
14	6	0		1	6	8
15	6	8		1	10	0
17	13	4		1	13	4
18	13	4		1	16	8
20	0	0		2	0	0
22	0	0		2	3	4
24	6	8		2	6	8

And ſo proportionably, according to the ſayd Rates.

The charges of a Fine, with license of Alienation followeth.

	l.	s.	d.
In primis, for making of the *Dockquet*,	0	1	0
For signing of the *Dockquet*,	0	2	0
For entring the Fine,	0	0	6

Note that

The Fine for Alienation, is the third part of yearely profits of the Lands set downe by the Officers in the *Dockquet*.	*Fine third part Valoris terr.*		
For making the License, and for sealing of it,	2	0	0
For entring of the Composition.	0	0	6
For Writ of Couenant.	0	2	6
The Fine in the VVritof Covenant, is the tenth part of the Value, as is set downe by the Officers.	*Fine bre. Conuenant tenth part valoris terr.*		
To the *Custos brevium*.	0	2	8
For entring of the Kings siluer.	0	0	6
To the *Chirographer*.	0	5	8
To the allowance of the Proclamation,	0	1	0

	l.	s.	d.
For engrossing of the Fine, and expedition.	0	1	6
For the Attourneyes Fee,	0	6	8
Summe Total, besides Fines.	3	4	4

The charges of a Fine knowledged by speciall Dedimus Potestatem.

	l.	s.	d.
IN primis, the Writ of *Dedimus potestatem*,	1	2	1
The Fine of the Hannaper.	0	6	8
The Lord Chiefe Iustice his hand to the *Dedimus potestatem*.	0	1	0
To the Master of the Rolls, for his hand to the same,	0	1	0
The Returne of the *Dedimus potestatem*,	0	2	0
The Attourneyes Fee:	0	3	4
For drawing of the Concord,	0	3	4
The Writ of Couenant,	0	2	6
The *post Diem inde*,	0	0	4
The Returne thereof,	0	2	0
Item, one of the *Custos Brevium* his Clerkes, which taketh out the Fine,	0	1	0

The

	l.	s.	d.
The fine is according to the Value (*id eſt*) the tenth part of the value,	0	10.	*pars.*
For the Commiſſion or *Affedauit.*	0	0	4
For the Kings Siluer.	0	10	4
The entring of the Writ of Couenant,	0	0	6
The *Cuſtos Brenium,*	0	2	8
To the *Chirographer.*	0	5	6
If you bring your Writ of Couenant after the Terme is ended, The allowance of the Proclamation will coſt you,	0	1	0
For engroſſing of the Fine.	0	1	0
For expedition,	0	6	6
Atourneys Fee,	0	3	4
Summe Total, beſides Fine to the King.	2	1	10

And ſo much ſhall ſuffice for the charge of a Fine ſo acknowledged: Now followeth,

The Charges of a Fine knowledged before my Lord chiefe Juſtice of the Common-pleas.

IN *primis*, for drawing of the Concord,	0	1	6

The

	l.	s.	d.
The Writ of Couenant,	0	2	6
The Knowledging before his Lordship.	0	9	0
The Fine for the Value.	*Vt supra.*		
For the *Affedauit* and compo-sition.	0	0	4
For entring the Writ of Coue-nant.	*Vt supra.*		
To the Receiuer, for making of the Writ, and knowledging of the same.	0	0	6
The Returne of the Writ of Couenant.	0	2	0
The *Post Diem inde*,	0	0	4
To my Lord chiefe Iustices man, for getting of his Lords hand to the concord.	0	1	0
To the *Custos brenium*,	0	2	8
For engrossing of the Fine.	0	1	0
For expedition,	0	0	6
Attorneys Fee,	0	3	4
Summe Total, besides Fine to the King.	1	13	4

The

The Charge of knowledging a Fine at the Barre.

	l.	s.	d.
For engrossing of the *Concord*,	0	2	6
Bre. de Couenant:	0	2	6
Affedauit.	0	0	4
Allocatio Bre. de Couenant.	0	0	6
To the Receiuer.	0	0	6
To the Sergeant at Barre.	0	3	4
To the *Prothonotaries* Clerke for making the Knowledge,	0	0	6
To the Boxe,	0	0	6
To the Porter.	0	0	6
Fine to the King,			*vt supra.*
Returne of the Writ of Couenant,	0	2	0
Custos Brenium.	0	2	0
Entring of the Kings Stiuer.	0	0	6
To the *Chirographer*:	0	5	8
Engrossing of the fine & expedition,	0	2	6
Summe Total, beside the Kings Fine,	0	3	6

ALl Writs of Couenant, Writs of Assize, and Writs in nature of Assize aboue the value of forty shillings, pay Fine, *as before is set downe.*

Writs of Debt, and Writs of *Trasp.* aboue 40 l. pay Fine as followeth, (viz.)

Aboue 40. l. vnto 100. l. payes 0. l. 6. s. 8. d.

l.	s.	d.		l.	s.	d.
100	0	0	payes	0	10	0
133	6	8		0	13	4
146	6	4		0	16	8
200	0	0		1	0	0
233	6	0		1	3	4
240	13	4		1	6	8
300	0	0		1	10	0

Et sic progreditur in infinitum.

WRits of Forme-downe aboue the value of foure pounds, pay Fine in forme following.

l.	s.	d.		l.	s.	d.
5	6	8	payes	0	6	8
6	6	8		0	10	0
10	13	4		0	13	4
11	13	0		0	16	8
16	0	0		1	0	0
17	6	0		1	3	4
18	0	0	}			
19	0	0	}	*Ratably.*		
20	0	0	}			
80	0	0		*similiter.*		
82	6	8		1	10	0

Et sic de ceteris de proportionabiliter, procedendum est.

All

All Writs of
Pone of *Iustic.*
Pone of *Writs* of *Right.*
Pone de auerijs bonis & Catallis.
De Conspiratione,
Falso Iudicio,
Recordare of all kinds except *de auerijs &c.*
Accedas ad Curiam,
Dedimus potestatem for knowledge of a Fine, or Deed to be enrolled or cancelled.

Euery one of these Writs doe pay 1. l. s. d.
Fine, ——— 1 — 6 — 8

I Doe confesse that I haue here omitted the precise order of setting downe the proceedings of the *Common-Pleas*, in the way of gradation and true footmāship in the scale of method numerously; as also in the deliuery of the Fees of this court. I doe acknowledge, that more might haue bin added, and some of these may be subiect to the quarrell of those who desire to keep their Law-mysterie in *Emblems* and *Characters*, like to conscionable *Caldeans*; rather then to communicate them with the publike in a known way of dealing, and a familiar language of Commerce: For answer hereunto, I referre me to the preface in the frontispice hereof.

Desiring onely such as affect generall good, to testifie their generous and ingenerate goodnesse in the assistance hereof.

Thus the Author prayes in ayde of your *Common-pleas* men especially, and as duty more bindeth him, of that most worthy to be so most eminent a *Prothonotarie* among you, Mr. *Brownlowe* with this Conclusion:

You that are Masters of this Science,
I aske your ayde and free supplyance.

Cætera turba tuas mavult vitare, ministro:
Fulminis hæc vanda, propria præda Vale.

I Doe confesse that I have here omitted the precise order of leaving downe the proceedings of the Common-Pleas, in the way of practice and true formalitie in the Role of matched numerous [illegible] in this court. I determined, that more might have binn added, and some of them may be subject to the quarrell of those who desire to keep their Lawe in Feathers and Chevrets, like to conceale Cadmus, rather than to communicate them with the publike in a known way of declaring, and a familiar knowledge of Commerce: For mine owne person, I referre me to the practice in the Romaynes heroes.

Desiring onely such as affect generall good, to cultivate their gentious and ingenerate goodnesse in the mistaken heroes.

THE

THE KINGS BENCH.



THe *Kings Bench* consists of the *Prothonotaries* side, and the Crowne Office side, &c.

On the *Prothonotaries* side are (as I deliuered in my *Search* of Record:)

Onely
Personall Actions, and some mixt Actions?
besides Suits wherein as the King
is partie.

FOR their proceeding in personall and mixt Actions, it is generally the like as that of the *Common Pleas*, and therefore shall not require a second recitall: So are their Fees generally

generally alike: For hee that is a ſufficient *Common-pleas* man, is able to the practice of any other Court of Common Law whatſo euer.

And therefore I ſhall onely ſhew you in what poynts of proceeding they doe differ, and how eaſily thoſe differences are and may be reconciled withall.

The *Kings Bench* vſeth onely a *Latitat* for their Leading Proceſſe.

To this, the firſt Leading *Capias* of the *Common-plear* does anſwere.

For as the *Capias* hath an originall Writ to goe before it: So the *Latitat* ſuppoſeth and pretendeth a Bill of *Middleſex* to lead it alſo, For that is granted in the *Kings Bench*, becauſe it is intended that the Defendant vpon returne of a Bill of *Middleſex* precedent doth *Latitare in valleatur*, &c.

Only the *Latitat* is like to Do[illegible] writer, which ſerues for all diſeaſes [illegible] one forme in all caſes and actions whatſoeuer, and charges the Defendant onely *De pl. Tranſ.* be it for debt or other cauſe, &c.

But the Originall muſt containe the true cauſe of action, and be ſo exactly ſet downe and drawn, that all the following Proceſſe and proceeding, may be tyed to agree with it *punctuatim*.

The *Kings Bench* man payes Fine to the King, in Debt and the like actions aboue 40 l.

So doth the *Common-plear* man too.

But

But the *Kings Bench* man hee payes but halfe ſo much as the *Common-Pleas* man doth, and the *Common-Pleas* man is the better pay-maiſter too. For he payes at the firſt entrance into ſuite, and vpon the Originall, whereas the other payeth not till he declareth, which in many caſes neuer is done at all.

In the *Kings Bench* the Plaintiffe hath longer time to declare then is allowed in the *Common-Pleas*. And where the Defendant appeareth vpon ordinary Bayle, whoſoeuer will, may come in and Declare againſt him, which is not vſed in the *Common-Pleas*.

In the *Kings Bench* you ſhall not need to put in ſpecial Baile, vnles it be for debt vpon Specialty

So it is likewiſe in the *Common-Pleas*.

But the *Common-Pleas* enioynes ſpeciall Bayle for 10.l. and the other not vnder 20.l.

In the *Kings Bench* the Attourney for the Defendant may mend or alter his Plea, after it is deliuered ouer.

So may the *Common-Pleas* man too,

But the *Common-Pleas* man muſt doe it within the ſame Terme, whereas the *Kings Bench* man hath a longer time, For that hee is not tyed to enter by parcell, and ſo ſoone as the *Common-Pleas* man is, but to doe it altogether, and at much more leiſure.

For the charge of remouing the body of any Priſoner, by *Habeas Corpus* in the one, or by

Oſtenſum

Oſtenſum eſt in the other, though there bee ſome difference in the firſt riſe, and here & there afterwards in the proceeding of the Remooue, [putting in Bayle, and fyling of it, yet if we conferre their Bills of Coſts together. in the concluſion we ſhall find a very little difference in the whole.

Both pay dammage cleere, that is, poundage upon euery twenty ſhillings in a Iudgement: But the *Kings Bench* payes onely twelue pence the pound, and the other payeth two ſhillings.

There be ſome other few differences in the formalitie, but none in the ſubſtance of their myſteries. And thus I leaue the *Prothonotary* ſide.

For the Crowne office ſide: It pleaſed ſome to make an eſpeciall ſuite to exclude my pen from medling in their myſterie in my former Worke: And therefore (as I then ſayd) ſo I muſt now reſolue, that I doe aduiſedly pretermit it, and giue it backe to their own care, who are better able to performe this generall good at their pleaſure, when it ſhall pleaſe them to intend the publique. And now I bend my iourney homeward, and to my natiue Birth-bed: *London.*

LONDON

LONDON

THEIR COVRTS OF COMMON LAW; (viz.)

First, the Lord Mayors Court:
2. *The Sheriffes Courts.*

THey doe all deale in Actions perſonall for the moſt part, except on the Lord Mayors ſide ſometimes a Reall action falls in by chance, for matter or demand of ſomething lying within the Citie.

Their proceeding generally is, *ad exemplum* of the *Kings-Bench*, onely differing in ſuch caſes, as where their Cuſtomes carry their predomination.

The Defendant if hee bee a Freeman, hath foure defaults, (that is) foure the next Court dayes of the place where the Action lyeth, to put

in Bayle to the cauſe: But the Forreyner hath no ſuch priuiledge.

The Plaintiffe hath a day ouer to declare, vnleſſe it be ſo that the Defendant is a Priſoner lying in durance vpon the ſame ſuite; For in ſuch caſe the Plaintiffe muſt declare vppon the very next Court day following the Arreſt.

And the Defendant is brought by Writ out of the Priſon to the Barre, to pleade vnto the ſaid Declaration.

There is one maine difference betweene the Proceeding here, and that aboue at *Weſtminſter*, which is in the moſt familiar and ordinary action of the Citie, (*viz.*) their *indebitatus aſſumpſit*, And that is, that they deny wager of Law here, vpon it: which (howſoeuer it be countenanced, and gloſſed by the Cuſtome) I am ſure it takes away the Inheritance of a free-borne Subiect by the Law.

The like opinion I haue of an Attachment made of goods in *propriis manibus* of the owner.

The proceeding heere generally in all caſes, where they lay by their Cuſtomes are to the preſident of the Common Law at *Weſtminſter*.

Onely they haue one helpe beſides; Errour, and *Erroniceé emanit*, after Verdict heere, which is to marke the cauſe before my Lord *Mayor*; where how farre that *ſuperintendency* may ouerrule, I know not.

The

The charge of the proceeding in the Sheriffes Courts in any ordinary Action, where the Iudgement is had by default, is about - } 0 — 16 — 0

Where the Iudgement is had by Verdict of Iury, about -- } 1 — 6 — 8

For a *Non suit*, in case where the Plaintiffe doth not declare about —— } 0 — 3 — 0

For the Customes of the City, I referre you to read

Duntherne
and
Liber Albus.

Both which treat vpon the same Subiect, and are kept in their common Treasurie at *Guild Hall*, in *London*, as I declared in my last of Direction for Search, &c.

And so much may suffice for *London*, in auoidance of Repetition of the same matter oner againe, for feare of abusing of your patience, or accusing of mine owne memory, &c.

All other Court of Records in all *Cities, and great Townes* Incorporate.

THey all are led to the example of the *Cõmon Pleas*, and *Kings-Bench* generally; And their proceeding (as vnto the formalitie) is alike for the moſt part: And therefore my excuſe is gone before me, for that I do dwell no longer vpon them, but carry my eye higher, which is into.

THE STARRE-CHAMBER.

The Practice of proceeding there.

FIrſt, it is to be vnderſtood, that in caſe betweene party and party Subiects heere, the Leading Proceſſe is onely a *Sub pœna ad ſummovendum* againſt the Defendant.

And the Defendant hath foure dayes after the Returne of the *Sub Pœna* to make his appearance, which he muſt carefully enter.

	l.	s.	d.
And for entering his appearance, he is to pay.	0	2	0
Beſides the Attourneyes Fee, which ſerues alſo for the whole Terme.	0	3	4

If he appeare after the foure dayes, and no attachment bee awarded againſt him, he then payeth onely for the *Poſt Diem*

After the time limited for the Defendants Appearance is paſt, vpon the Defendants default, and Oath made of the ſeruing of the *Sub Pœna* the Plaintiffe may haue an Attachment againſt the Defendants.

	l.	s.	d.
He ſhall pay Fee for the Oath	0	2	6
For the Warrant for the Attachment.	0	2	4
Alſo for the Writ and Seale,	0	2	6

If his Returne bee at a day certaine, hee hath that day, and the next day after to appeare.

But if vpon a generall Returne, hee hath foure dayes after (as aforeſayd) wherein it appeareth likewiſe, that this Court followeth the practice of the high Court of *Chancerie*.

If the Attachment goe forth, and the Defendant bee taken thereupon, and commeth in then to make his appearance: hee muſt enter into Bond to anſwere the Contempt.

Fee *inde*, ——— 0.l.—2.s.—0.d.

If a Bill bee exhibited, the party againſt whom it is, may, (hauing notice thereof) if he will appeare gratis vnto it, and make anſwere without Proceſſe.

If vpon the Attachment made out againſt the Defen-

Defendant for not appearing, the Sheriffe returne *Nihil feci*, the Plaintiffe may haue an *Alias Attach.*

	l.	s.	d.
For the Warrant *Inde.* ——	0	3	4
Writ and Seale, ——	0	2	6

If the Sheriffe returne *Non est inuentus*, vppon the Attachment, the Plaintiffe may haue at *Attach* with Proclamation, wherein this Court ſtill perſues the practice of the *Chancerie*, &c.

	l.	s.	d.
Fee for Warrant *inde*, ——	0	3	4
Writ. ——	2	2	6

And if the Defendant doe not appeare vpon the Proclamation, the Plaintiffe is to call for the Returne thereof, which the Sheriffe will returne *Proclamari feci*, and thereupon the Plaintiffe may ſue forth a *Cõmiſſion* of *Rebellion*, directed to fiue ſuch Cõmiſſioners as himſelfe ſhall pleaſe to name, for the apprehenſion of the Defendant, &c.

	l.	s.	d.
Fee for the Warrant *inde*, --	0	3	4
Writ and and Seale, ——	0	15	0

If the Defendant appeare vpon any of the Attachments, the Plaintiffe may haue him committed to the Fleete for his Contempt; vpon order herein,

	l.	s.	d.
For entry and Copy of the Order *inde*, ——	0	3	0

Where

Where note, that it is no contempt, vntill ſuch time the Counſaile ſhall judge and order it to be a contempt.

If the Defendant, after he had appeared vpon Attachment, do depart without anſwering of the Contempt; his Bond may bee eſtrated into the *Exchequer*, and order may be for his Commitment likewiſe, notwithſtanding the aduantage to be taken of the Bond.

The Plaintiffe muſt, before he hath any Warrant for the Proceſſe here put into the Court a perfect Bill, or elſe a Bill *pro forma*.

If the Plaintiffe doe exhibite a Bill *pro forma*, So much time as the Defendant hath after the Returne of the *Sub pœna* to make his appearance, euen ſo much time hath the Plaintiffe to make his Bill perfect.

If the Plaintiffes bill be not put into the Court in due time, the Defendant may get him to bee diſmiſſed with Coſts.

	l.	s.	d.
Fee for euery twenty ſhillings aſſeſſed for Coſts to the Clerke of the Court *inde*. ——	} 0	2	0 *vpon the pound.*
For the Warrant to lead the Writ whereby to demand it.	} 0	2	0
For the Writ and Seale, ——	0	2	6

If vpon ſeruing of the ſaid Writ for Coſts and *Affedauit* made on that behalfe, the coſts bee not payd by the Plaintiffe, the Defendant may

may haue an Attachment againſt him.

The Fee of which Attachment, ---*vt ſupra.*

The Defendant hath eight dayes after his appearance entred, to put in his Anſwere, ſo as he doe appeare within his due time.

	l.	s.	d.
For the Copie of the Bill, for euery ſheete *inde.*	0	1	0

If the Defendant cannot appeare perſonally, by reaſon of Impotencie, &c. Vpon *Affedavit*, made in that behalfe, He may haue a *Dedimus poteſtatem*, to take his Anſwere in the Country, as is vſed in *Chancerie.*

	l.	s.	d.
Fee for the *Affedauit* herein,	0	2	4
The Copie thereof,	0	2	0
The *Non* appearance of euery ſeuerall Defendant ſerued to appeare and hauing this benefit, *payable in Court.*	0	1	4
For euery the like for the ſame, to his Attourney *per* piece *euery name.*	0	1	8
For ingroſſing of the Bill, for euery ſheete, *inde* *euery ſheete.*	0	0	8
The Warrant.	0	3	4
The Writ and Seale,	0	7	12

If the Oath to juſtifie the impotencie in the ſaid caſe cannot be made; Then the ſaid *Dedimus Poteſtatem*, muſt be obtained, of, and from the Lord *Keeper*, and by ſuite vnto him to bee made in that behalfe.

	l.	s.	d.
Fee for the Entry of the Order, —— —— ——	0	3	0
For the other Fees, —— —	*vt ſupra.*		

If neither the *Affedauit* of impotency can be made; Nor the Lord *Keepers* allowance can bee had herein, then meanes muſt bee vſed to procure the Plaintiffes conſent, that the Anſwere may bee made by *Dedimus Poteſtatem*, in the Countrey; which if it be alſo denyed, there is no remedy, but the anſwere muſt bee made heere perſonally vnder the perill aforeſaid.

After a Commiſſion of *Dedimus Poteſtatem*, is gone forth to take the Anſwere in the Countrey, It muſt be returned, after it is executed, by Oath; vnleſſe one of the Commiſſioners himſelfe bring it.

	l.	s.	d.
Fee for the Oath in this caſe, —	0	0	4
For the entry thereof, —	0	1	0

VVhere note, that the deliuerie made by a Commiſſioner, ſaueth both the Oath, and the charges of the Oath alſo.

And if the Defendant in this caſe doe not anſwere in time: Then the Plaintiffe may make out an Attachment, (*vt ſupra.*)

	l.	s.	d.
For the VVarrant *inde*, ——	0	3	4
For the VVrit, ——	0	2	6

And vpon the Attachment in this caſe, the Plaintiffe may proceed to a Commiſſion of Rebellion, (*vt ſupra.*)

And

And if a *Dedimus Poteſtatem* bee granted to the Defendant to make anſwere in the Countrey; The Plaintiffe may, if hee pleaſe ioyne with him therein, and miniſter Interrogatories for the Defendant to anſwere vnto likewiſe.

If the Plaintiffe doe ioyne with the Defendant in the *Dedimus poteſtatem*; And the *Dedimus poteſtatem* is obtained by *Affidauit* made (*vt ſupra.*) The Plaintiffe muſt then and in ſuch caſe pay to the Defendant the one halfe of the charge of the Writ and Seale, &c.

	l.	s.	d.
Fee for the Warrant for the Writ, ——	0	3	0
The Writ, ——	0	7	2

The Plaintiffe hath foure dayes after the Defendant hath deliuered in his Anſwere, to put in his Interrogatories, whereupon the Defendant is to be examined.

Fee for the Copy of the Anſwere for euery ſheete, *inde* ——	0	1	0

And if the Defendant ſo pleaſe, hee may omit the benefit of putting in of any ſuch Interrogatories at all: For he is not bounden therevnto.

And if the Defendant doe depart out of Towne, before he be examined vpon Interrogatories (as aforeſaid.)

Then the Plaintiffe may haue an Attachment againſt the Defendant for ſuch departure.

	l.	s.	d.
Fee for the Warrant made,	0	3	4
For the Certificate of the Examiners, to testifie that hee the Defendant is not examined.	0	1	6
For the Writ.	0	2	0

And vpon the said Attachment, the Plaintiffe may proceed to the Commission of Rebellion against the Defendant, if hee will in manner (as aforesaid.)

If the interrogatories be put in by the Plaintiffe; The Defendant may be examined thereupon.

	l.	s.	d.
Fee for the Examination,	0	2	4
For admittance to Attourney.	0	2	4

But if no Interrogatories bee put in by the Plaintiffe, within the time limited (as aforesaid;) Then after the time (which is foure dayes) expired, the Defendant may safely depart out of Towne.

Prouided, that hee the Defendant doe first obtaine from the Examiners, a Certificate to testifie that the Plaintiffe hath not yet put in any Interrogatories against him.

Fee for the Certificate, ——— *vt supra.*

For his admittance to Attourney, ——— *vt supra.*

And if the Defendant doe *Demurre* to the Bill of the Plaintiffe: Then the Defendant shall not need to put in Sureties thereupon, but onely

to

to moue the Court, that his ſaid *Demurrer* may be referred to the Examination, and Conſideration of ſome of his Maieſtier Iuſtices of eyther Bench, or to ſome of his Maieſties Counſaile learned in the Law: and that they may certifie backe to the Court, whether the ſaid *Demurrer* be ſufficient or no.

For the entry of the Order here vpon. ——— ——— l. 0 s. 3 d. 0

And if the Iuſtices, or his Maieſties Counſell in the Law, to whom the ſaid *Demurrer* is ſo referred, and committed, doe vpon Examination and Conſideration thereof, certifie to the Court, that they finde the ſaid *Demurrer* to be inſufficient: Then thereupon the Defendant is to pay to the Plaintiffe for his extraordinary coſts in this behalfe, forty ſhillings.

And the Plaintiffe in this caſe may likewiſe haue a *Sub pœna* againſt the Defendant to make a better Anſwere.

Fee for the Entry and Copy of the ſaid Certificate. ——— l. 0 s. 2 d. 0

The Warrant for the Wris to cal the Defendant to make a better anſwere, ——— ——— 0 2 0

The Writ and Seale, ——— 0 2 6

And if the Defendant doe not pay to the Plaintiffe the ſaid ſumme of forty ſhillings ſo awarded for the inſufficiency of the *Demurrer*; and that vpon the returne of the *Sub pœna* to

make a better Anſwere; Then the Plaintiffe may haue a *Sub pœna ad ſoluendum*, in that behalfe againſt him.

	l.	s.	d.
Fee for the Warrant *inde*,	0	2	0
For the Writ and Seale,	0	2	6

And if the Defendant doe not pay the Plaintiffe vpon that *Sub pœna* being ſerued vpon him, And Oath thereof be made: Then the Plaintiffe may haue an Attachment againſt the Defendant for his ſayd Coſts ſo awarded, and proceed thereupon: —— *vt ſupra.*

Fees *inde*, —— *vt ſupra.*

If *Affidauit* be made that the Defendant is ſo aged or impotent, that hee cannot come to anſwere or *Demurre* here in perſon, His *Demurrer* will bee accepted, as though hee were perſonally preſent at the doing thereof.

And then if the Defendant doe *Demurre* to one part of the Bill, and Anſwere to another part of it; The Defendant is to anſwere to Interrogatories touching that part of the Bill, vnto which he ſo anſwered.

And if vpon examination had of the Defendants *Demurrer*; The Iuſtices or ſuch of his Maieſties Counſaile learned in the Law, vnto whom the ſame was referred, doe certifie to the Court that they finde the *Demurrer* to bee ſufficient; Then, and thereupon the Plaintiffes Bill is to bee ouerthrowne, And the Defendant ſhall

be

be diſmiſſed out of the Court, with his coſts in this behalfe ſuſtained, to be allowed vnto him.

	l.	s.	d:
Fee for the entry and Copy of the ſaid Certificate,	0	1	0
For the diſmiſſion,	0	2	0
To his Attourney for his bill of Coſts,	0	6	8
To the Clerkes for entry,	0	2	6
For the VVarrant to lead his VVrit *ad ſoluendum*,	0	2	0
For the VVrit and Seale,	0	2	6

VVhere note, that if neither the Plaintiffe, nor the Defendant doth moue the Court to haue the *Demurrer* to bee referred in manner as aforeſaid; there the cauſe proceedeth no further but dyeth.

And note, that oftentimes the ſufficiency of anſwere made to Interrogatories, is referred by the Court to Committees: But howſoeuer the Certificate is made thereupon, for, or againſt either party, no diſmiſſion doth follow thereupon; Onely ſome ſmall coſts is awarded to the party, on whoſe ſide the Certificate is made: for the Recouery of which coſts, they may take ſuch courſe and order, as is to be taken in caſe of a *Demurrer*.

Fees *inde*, —— —— *vt ſupra*.

When the Defendant hath put in a ſufficient Anſwere to the Plaintiffes Bill, and the Defendant is likewiſe examined vpon Interrogatories,

(as

(as aforesaid:) Then the Plaintiffe may Reply, and take forth a Writ *ad Rejungendum* against the Defendant which must be serued vpon him for that purpose.

Fee for the Copy of the Answer and examination *super interr.* — 3 0 *vt supra.*

	l.	s.	d
The Warrant to lead the Writ,	0	2	0
The Writ and Seale,	0	2	6

VVhere note that the Plaintiffe is not compellable to Reply, before such time as all the Defendants haue made answere.

And if the Defendant answereth generally, *Not guilty*: Then there shall need no Replication to be made at all; because they be at issue vpon the same Plea; And then the Plaintiffe may take out his VVrit *adiungendum in Commissione*, to make the Defendant ioyne with him in Commission.

Fees *inde.* — *vt supra.*

And if the Plaintiffe doe Reply, before such time as the Defendant is examined vpon Interrogatories; hee looseth the benefit of examining the Defendant in that kind.

And if the Plaintiffe do not reply, the next day after the daies expired, which are giuen to him in warning, to make his Replication: The Defendant may in such case, and vpon such default of the Plaintiffe, moue to haue the cause dismissed, for want of effectuall prosecution.

Fee

l. s. d.

Fee for the Entry of the Order, o — 3 — o

For the Reſt, —— *vt ſupra*, for *Demurrer*.

When the Plaintiffe hath ſerued the Writ *ad Reiungendum* vpon the Defendant, And *Affedauit* bee thereof made, He may take forth his Commiſſion to examine Witneſſes.

This Commiſſion is to bee directed vnto ſuch Commiſſioners, as the Plaintiffe and Defendant ſhall agree vpon.

l. s. d.

Fee for the *Affedauit* made for the ſeruing of the Writ ad *Reiungendum*, —— —— } o — 2 — 4

The Warrant, —— o — 3 — 10

The Writ Com. —— o — 7 — 2

If the Defendant doe refuſe to ioyne with the Plaintiffe in the Commiſſion: Then the Plaintiffe may ſue out the Commiſſion himſelfe alone on his party, and direct it vnto foure Iuſtices of the Peace, and execute it at his pleaſure:

Otherwiſe the Plaintiffe may (if he will) examine his Witneſſes here in Court.

When the Writ *ad Reiudgendum* is ſerued vpon the Defendant, he need not to enter any appearance thereupon, but only to Reioyne to the Replication.

Fee *inde*. —— —— *vt ſupra*.

And if the Defendant doe ioyne with the Plaintiffe in Commiſſion: Then the Defendant

is to pay the one halfe of the Fee of the Commission:

Fee *inde*, —— —— o-- *vt supra*--o

If the Plaintiffe doe delay the suing forth of any Commission to examine Witnesses: Then the Defendant, vpon Oath made that hee was serued to reioyne, may himselfe alone take forth a Commission to examine on his party:

Fee *inde* —— — *vt supra.*

Or otherwise, the Defendant for such delay of the Plaintiffe, may the next Terme following moue to haue the Cause dismissed.

When the Commission is executed and returned, the Plaintiffe or Defendant may assigne and giue to each other a day to shew cause why Publication should not bee granted in this matter, &c.

	l.	s.	d.
Fee for Returne of the Commission, ——	o	o	4
The Rule of Publication, ——	o	1	o

After Assignment to Publication & the dayes so assigned be expired if nothing be said to the contrary, The Publication may be entred.

	l.	s.	d.
For the entry of Publication,	o	1	o

Note that nothing stayeth Publication, but it must be granted vpon

Order,

Order,
Affedauit,
Certificate,
or
Conſent.

After publication is ſo had and procured (as aforeſaid) the Cauſe ſtandeth then at the higheſt. For untill the Hearing, nothing more is to be done here.

	l.	s.	d.
For the entring of the Cauſe then into the common Booke of Hearing, —— ——	0	1	0

Laſtly, you ſhall obſerue that nothing altereth the aforeſaid grounded rules of this moſt Honourable Court, but only

Order,
Affedauit,
Certificate,
or
Conſent.

Which procured vpon ſome extraordinary accidents, doe ſometimes change the preſcribed cuſtome of proceeding and rule of the Court.

The forme of proceeding Ore tenus *in the* Starre-Chamber *followeth.*

IF the Delinquent hath done or ſpoken any thing worthy the Hearing and Cenſure of this honourable Court, And be queſtioned for the ſame, And thereupon doth confeſſe the fact or words, and ſubſcribeth his hand to the ſame Confeſſion made in writing before the Lord *Chancellour* or Lord *Keeper*, or any the Lords, Iudges, or the Kings Counſaile; And doth, when he is called to this Barre to anſwer it, likewiſe confeſſe the ſame to be true, and acknowledgeth his hand ſubſcribed to the confeſſion made (as aforeſaid:) Then, and in ſuch caſe the Court uſeth to proceed to the Sentence and Cenſure in the matter.

It hath not beene ſeene formerly, That any but the Lord *Chancellor* or Lord *Keeper*, the Iudges, or the Kings Counſayle haue taken any ſuch Examinations or Confeſſions ſo ſubſcribed vnder the Delinquents hand (as aforeſaid.)

Neuertheleſſe, if ann other who hath authoritie in this behalfe, ſhall take any ſuch Examination & ſubſcription, And the party ſo examined and ſubſcribing, ſhall at the Barre confeſſe the matter,

matter and acknowledge the hand; The Court may proceed to Sentence and Cenſure thereupon:

For the life of his Examination is the Confeſſion and acknowledgement thereof at the Barre, when the Court doth examine (him as the cuſtome is) whether that which is confeſſed in writing be true, or not.

And if the Lord *Chancellor* or Lord *Keeper*, the Iudges, the Kings Counſaile, or any other ſhall take any ſuch Examination and Confeſſion; Yet, if the partie at the Barre ſhall eyther deny his hand thereunto ſubſcribed, or the matter therein contained to be true; Then the Court doth not vſe to proceed to Sentence or Cenſure him.

So conſequently the ſtrength of the examination ſeemeth, not to ſtand in the partie who taketh it, if he be of authoritie, but in the parties Re-examining the ſame at the Barre, and the Recognization thereof.

And ſo I conclude the practice of the Court of *Starre-Chamber*,

THE EXCHEQUER.

THe *Exchequer* hath three ſeuerall places of proceeding, according to the three ſeuerall manner of buſines belonging vnto it on the pleading ſide: (*viz.*)

The *Chequer* Barre.
The *Chequer* Chamber.
The Court of *Pleas*.

For the *Exchequer* Chamber, It is the Engliſh Court or place where the proceedings are held by Engliſh Bill and anſwere; And the proceeding thereof is very much like to that of the *Chancerie*, (as is ſaid before) and therefore I meane not to inſiſt any further vpon it.

For the Court of *Pleas*, It is the very Imitatiue of the Courts of Common Law in the Hall; and therefore I would bee loth to boyle the ſame meate twice ouer to your Trencher: but

but reſerue my ſelfe for the *Chequer* Barre eſpecially, and the Receipt ſide.

The Proceſſe and Proceedings of the *Chequer* Barre are diſtributed betweene the two *Remembrancers* of this Court; (*viz.*) the Kings *Remembrancer* and the Lord *Treaſurers Remembrancer.*

And what doth properly appertaine to the one, and what to the other, I haue at large ſet downe in my *Direction* for ſearch of *Record* according to the finall doome and Order of Sir *Richard Lyſter* Lord chiefe Baron in the time of King *Henry* the eighth.

And by the view of the particular matters and buſineſſes therein appropriated ſo reſpectiuely, you may the better iudge of the proceeding to be held vpon them; the rather for that euen here at the Barre ſide, they doe in moſt things follow the practice of the common Law alſo.

Therefore I ſhall bend my ſelfe to ſet foorth the practice of thoſe things which are not preſidented in the other Common Law Courts, at all, being matters onely proper to this, &c. with that ſmall difference which is between this Court and thoſe of the Common Law below Staires, in point of Appearance at the beginning of a Suite, &c.

The

The order of Appearance in the Exchequer.

IN the *Exchequer* the appearance may bee made by Attourney, ſo that there be ſureties laid in to anſwere the matter.

☞ This Bayle muſt be alwayes taken before a Baron in the Court, and not in his Chamber, as is uſed in other Courts.

The Proceſſe is a *Sub pœna*; And if the Defendant doe appeare thereupon by his Attourney, his Sureties muſt be bound by Recognizance (as aforeſaid) with condition that hee ſhall render, &c. If the Defendant be condemned.

If the Plaintiffe be pleaſed, The hand of the Defendant may be ſufficient in this caſe, whether he appeareth perſonally or no:

And except the matter bee the greater, one Surety may ſuffice, &c.

The Charge of Appearance upon a Sub pœna *in the* Exchequer.

	l.	s.	d.
In primis the Appearance,	0	0	8
The Recognizance.	0	0	8
The Attourneyes Fee,	0	3	4

The

	l.	s.	d.
The Copie of the information at eight pence the sheete,	0	0	8 le sheet.
For entring of the Bayle, if it be in generall issue,	0	5	0
If in a speciall issue, then for euery halfe Roll,	0	16	8
To a Counsailour for drawing of the Plea in Barre at the least.	0	6	8 if it will satisfie.
The *Sub pœna* it selfe and Seale wherevpon the appearance is,	0	2	7

The charge of an Inrolement in the Exchequer.

	l.	s.	d.
IN primis, to the Baron before whom the acknowledgment is made,	0	6	8
To the Master of the office for his hand,	0	6	4
For euery Roll,	0	3	4
To the Attourney.	0	3	4
Summa Totalis inde	0	19	9

The charge of the Sheriffes Account in the Exchequer.

	l.	s.	d.
IN primis, for the *Tales* vpon payment of proffers,	0	2	8
For the entry of the same *Tales*,	0	1	4
For the *Diem extremum clausit* after the death of the Sheriffe, whereby execution is to be returned, *Sur. accompt.*	0	13	4
For the Warrant of Attourney,	0	1	0
The entry thereof,	0	0	8
The Vshers Fees, & poore mans Box.	0	13	4
The Controller of the Pipe,	0	16	8
To him more in regard.	0	3	4
To his Clerke for Summons and in regard,	0	1	0
To the Clerke of the Pipe in part of his Fee,	1	0	0
To the Lord Treasurers Remembrancer.	0	13	4
To the Forreigne Opposer for changing of the greene Wax, and making of the scrowle thereof,	1	6	8
To him for allowance of the wages for the Iustices of the Peace,	0	18	0

To

To the Clerke of the Eſtrats for portage of Bookes,		*As you can agree.*
To the vnder Clerke of the *Pipe* for the like,		*Similiter.*
The Preſident for the forreigne Account,		*Quer.*
Fee in regard of the Iuſtices of Aſſize their Dyet,	l. 10	s. d. 0 0
To the Attourney for the Entry thereof, and the other Petitions,	2	0 0
To the ſaid Attourney for his ordinary Fee for the whole yeere, *ad recipiendum mandat. &c.*	1	6 8
To him in regard for euery Terme during the Account,	0	13 4
To his Clerke in regard,	0	10 0
The Copie of the Sheriffes Seiſures, according to the number of them,		*According to the number of them.*
Le. Seiſure old,	0	1 0
Le. Seiſure new,	0	2 0
To the Clerke in regard of the ſame,	0	3 4
To the Remembrancers Office for euery thereof, and for ioyning the Tales of proffers,	0	3 4
On the Lord Treaſurers Remembrancers ſide for the like,		*Similiter.*

	l.	s.	d.
For allowance of the same *Tales* of payments of money in the Receipt of the Exchequer, —	0	1	4
For the Ioyning of the same, —	0	0	8
For allowance of the same, —	0	1	0
For euery day that is giuen to the Sheriffe for respect of his Accounts. —	0	6	8
For entry thereof, —	0	2	0
To the Vsher for Proclamation when the Sheriffe is cast out of the Court, —	0	2	6
For the *Quietus est*, the making and allowing of the same, —	1	0	0
For the Baron his Fee for the taking and allowing of the forreine accounts, —	0	6	8
To the same Baron of examining of the Sheriffes Schedule,	0	6	8

The ordinary charge for passing of an Account.

IN primis, for deliuery and receipt of three Certificates,	0	1	0
For deliuery of the Kings part of the Books of Extents to the Auditor, —	0	0	4
To the Auditors man for a bag,	0	0	6

For

	l.	s.	d.
For a Warrant of Attourney,	0	0	8
To the Teller for receiuing of the money, and for making a Bill thereof,	0	0	4
To the Auditors man for allowing of the Certificates,	0	1	0
To the Auditors man for engrossing of the Accounts,	0	4	0
To the Barons man for Receiuing & allowing of the Warrants of Attourney,	0	2	0
For entring of the Account on the Kings Remembrancers side,	0	1	0
For the like entry with Master *Smith*,	0	1	0
For joyning of their two *Tales*	0	0	8
For entring of the *Quietus est*,	0	3	0
For the *Quietus est*.	0	3	4
The Attourneyes Fee.	0	3	4
Summa Total is about,	1	1	8

And thus much for the *Exchequer*.

The Sheriffes Fees due unto their Officers for Iudiciall matters in manner following.

For the Writ of Entry Dedimus potestatem,	0	0	8

FEES BELONGING TO SHERIFFES.

	l.	s.	d.
IN primis, for the returne of euery *Cepi Corpus*,	0	0	4
For the Returne of a *Nihil*, or a *Non eſt inuentus*.	0	0	4
For returne of a Proclamation,	0	1	0
For the returne of a *Venire facias*,	0	1	0
For the return of a *Habeas Corpor.* or *Diſtringas*.	0	2	4
For euery name returned vpon a Writ,	0	0	4
For making of a Warrant vpon a Writ, if it be directed to the ordinary Bayliffe, then for euery name,	0	2	0
If to ſpeciall Bayliffe, or Bayliffes, Then for euery name,	0	3	0
For the Arreſt of euery Defendant, *Payable by the Plaintiffe.*	0	1	0

For

	l.	s.	d.
For making the Bond wherein the Defendant is bound with two Sureties for his appearance at the returne of the Writ, and in the Court named in the Writ,	0	0	4
For a Copy of the Warrant vpon the Writ.	0	0	4
For a *Replevin* or *Replevit* in the Shire,	0	2	0
For the returne of a *Recordare*,	0	0	4
For the returne of an *Accedas ad Curiam*,	0	2	2
For the returne of a *Distringas nuper vis.*	0	2	0
For the allowance of a *Supersedeas*, if it bee after the returne of the Exigent.	0	1	0

For the Executing of a Writ to enquire of Waste:
Also to enquire of Dammages:
Also to execute a Statute;
Or *habere facias seisinam.*
A Writ of Right:
De partione faciend.
For remouing the Ouer-charge of Common of Pasture.
Enquiry vpon an *Elegit.*
Writ of forcible Entry, or holding with force, whereupon the partie amoued is to be restored to his possession.

The Sheriffe hath for these, as you can agree with him.

Exe-

Execution of a Iudgment, *super bre de date.*

And the like.

For the seruing of an Execution, there is a generall Rule, that hee should be allowed according to the rate thereof in poundage, ——— } *See the Statute of Eliz.*

For the returning of a *Mandate ballino.* ——— } 1. s. d. 0—0—4

But vnlesse I had beene thrice an Vnder-Sheriffe, it were impossible for mee to set downe all his Fees truely and honestly: Therefore I leaue the rest to offer themselues vnto you, wishing it to be euer in *meliorem partem*: and for your benefit and credit.

FEES

FEES BELONGINNG TO THE CLERKE of the Peace and his Office, *now follow.*

FIrſt, it is to be vnderſtood, that heretofore the *Clerke* of the *Peace*, being onely Clerke vnder and vnto the *Cuſtos Rotulorum* of the County, was wont to haue wages yearely of the ſaid *Cuſtos* for his ſeruice.

The Clerke of the *Peace* is to make out all the Writs or warning, of all ſuch perſons as are to giue attendance at the Seſſions of the Peace, to be kept at ſuch place, as the Iuſtices doe appoint and agree vpon.

And at the place and time appointed for the Seſſions, The Clerke doth reade the Commiſſion of the Iuſtices, And then the Sheriffe of the Shire doth returne foure and twenty of euery hundred in the County, of which there is

is one Grand Iury for the body of the Shire drawne forth, and this is called the great Enquest.

And when the great Enquest is sworne, One of the Iustices giueth the charge vnto them, whereupon they shall enquire.

After the charge giuen and ended, They doe depart from the Barre, to some roome in some house neere thereabouts, where they may bee conueniently together.

And to them then and there are brought all Bills of Felony, Trespasse, Ryots, or other misdemeanors & offences giuen them in charge to enquire of.

And if the great Enquest finde any of the sayd Bills of presentments to bee true, And the parties themselues who are therein found faulty or guilty, be absent, so that they cannot be quitted, or punished for the present: Then, & in such case, The Clerke of the Peace to make forth against them three *Capias's*; and an Exigent to come in, to trauerse the presentment, or to subiect themselues to the Censure and Doome of the Court, &c.

When the great Enquest finde the Bill true; they write on the Back-side thereof, *Billa vera*; But in case they cannot finde it true for want of sufficient Euidence, Then they write on the back-side thereof, *Ignoramus*.

If it bee found, then the Clerke is to make forth

forth Proceſſe (as aforeſaid;) but if the Iury find it not, then farther proceeding is not to bee had thereupon.

If the party ſo indicted bee preſent, if it bee in caſe of Felony, &c. hee may bee forthwith arraigned before the ſayd Iuſtices, who are to proceed vpon him farther, as the Law in ſuch caſe prouideth.

If hee be not preſent, nor Attached, but at libertie till hee be vtlawed; Then after ſuch *Vtlary*, euery Acceſſarie to the fellony, may bee arraigned and tryed; but not before.

For other offences of inferiour nature, the partie indicted is to come in and to make his Fine at the diſcretion of the Iuſtices, or two of them at the leaſt, whereof one muſt bee of the *Quorum*, vnleſſe that before that time the party can get the Indictment to bee remoued by *Certiorare* into the *Kings Bench*.

And if it bee ſo remoued thither, Then the partie muſt eyther there trauerſe it *cum effectu*, or elſe compound with the Iuſtices of the ſaid Court for the ſame.

	l.	s.	d.
The Fees which euery perſon ſo indicted is to pay at the Seſſions,	0	2	6
Whereof to the Cryer and Marſhall,	0	0	6
And to the Clerke of the Peace,	0	2	0

	l.	s.	d.
And in case where a forcible Entry, or forcible holding is found before the Iustices, or some of them, The *Clerke* of the Peace is to make a Writ of Restitution, directed to the Shiriffe, to put the party athoued into the possession: For which, his Fee is	0	6	8
Item, for euery Warrant of the Peace,	0	2	0
Item, for euery Warrant of good Abearing,	0	2	0
Item, for euery *Supersedeas*.	0	2	0
Item, of euery person indicted of Felony, and thereof acquitted,	0	2	0
Item, for euery person acquitted vpon other Bils.	0	2	0
Item, vpon Remouing of euery Indictment by *Certiorare* into the *Kings Bench*: For the allowance of the sayd Writ,	0	6	8
Item, for euery Writ at the suite of the partie vpon a Trauerse tendered;	0	2	0

Some other few Fees there bee vpon matter within the Compasse of the Commission of the Peace, which time may enable me to adde; But for the other Fees which the *Clerke* of the

Peace

Peace doth take in ciuill matters, as for Licences of Malsters, Hyglers, &c. becauſe hee is onely *Clericus Clerici Retalorum Pacis*, I vnderſtand not how he claimes thoſe Fees in ciuill cauſes.

And for the Licence and Bond of Victualers giuen vpon Licence.

The Fees are vncertaine; For in ſome Counties the whole charges ſtands the Victualler in 6. s. in ſome 7. s. and in ſome 8. s. *Vijs & Modis per annum* yeerely. And the Victualler Licenſed *de nouo*, in ſome places payes more then the older Victualler. *Fee vncertaine.*

Note withall, neuertheleſſe, that the Victualler is the beſt Candle-rent Tenant that the Clerke of the Peace hath; And therefore I dare truſt them together, for I know not where I can better leaue him.

The Clerke of the Aſſize holds the next place for taking of Fees, (*viz.*)

CLERKE OF THE ASSISEES FEES,

(viz.)

IN primis, pro Querela.	0 — 2 — 0
Item, pro pl. in Barr. seu in Assiss.	0 — 2 — 0
Item, pro capiend. Assiss. super exit. ex vtraq; parte.	0 — 2 — 0
Item, pro intratione inde in Assiss.	0 — 2 — 0
Item, pro intratione Non pros. pro Querente.	0 — 2 — 0
Item, pro quolibet bre. secundum longitudinem eiusdem,	*secundum longitud.*
Item, pro quolibet Adior. in com. Barre, prout concordare poterit:	*As yee can agree.*
Item, pro quolibet Adior, ex vtraq; parte, si dies dat. si vtriq; parti.	0 — 2 — 0
Item, pro quolibet Warrant. Attornat.	0 — 0 — 8
Item, Quer. in quolibet Assiss. de Sesin. capt. tertia pars ex tertia parte damnorum,	*Ratabiliter.*

Feod.

Feod. de Record de Nisi prius,	0	0	6
Item, pro deliberatione eiusdem in Curia.	0	5	0
Item, de Quer. si Def. cognouerit actionem.	0	2	0
Item, de Def. si Quer. non vult prosequi.	0	2	0
Item, pro qualibet priuat. Verdict.	0	8	8
Vnde Iustic.	0	6	8
Item, de Def. pro inderfis, cuiuslibet. Record & Informac. vbi plit.	0	4	4
Item, pro quolibet Warrant Atter.	0	0	8

And thus farre my present Collations extend for the present, touching our Clerks of the Assizes their Fees.

The Charge of proning of a Will followeth.

THE

THE CHARGE OF PROVING OF A WILL

in the *Arches*, the *Inuentorie* being forty pounds and not aboue.

	l.	s.	d.
IN primis, the Proctors Fee and *Enos*, for prouing the Will,	0	5	8
Item, the Seale and *Probate* of the Will.	0	1	8
Item, for Registring the same,	0	1	6
Item, for engrossing of the Will, if it be but short:	0	1	0
Item, for engrossing of the Inuentorie, and exhibiting of the same,	0	3	4
Item, for the Registers hand to it,	0	1	0
Summe totall.	0	14	2

Generally for Probate of Wils and the charge thereof, according to the rate of the Inuentorie, see the Statute in that case, vnder that Title especially prouided:

If the Officers whom it concernes, can bee perswaded that it was prouided for them: *hinc oritur quæstio.*

COVRT

COVRT OF VVARDS.

Inſtructions to ſue forth a Lunaticke.

FIRST, you are to make ſuite to the Maſter of the Court of Wards for the Cuſtody of him whom you deſire to haue; not without much care, that you vſe a friend worthy your truſt in this behalfe.

When you haue a promiſe there, you muſt preferre your petition to him that is Maſter, deſiring that he will be pleaſed to grant you a Commiſſion for the finding of the ſame Lunaticke: which Commiſſion is to be directed to the Feodarie of the County where the Lunaticke abideth, and two others at the leaſt, whom it ſhall pleaſe the ſaid Maſter to appoint.

When you haue order for the Commiſſion (as aforeſaid) Then you are to goe to his Maieſties

leſties Attourney of the Court of Wards with the order. And hee will thereupon make you a Warrant for the drawing vp of your ſayd Commiſſion.

This Warrant you muſt carry to the proper Clerke, who is to draw your Commiſſion, which hee vpon ſight of the Warrant will accordingly doe.

Fee to the ſaid Clerke for the ſaid Commiſſion,	l.	s.	d.
	0	16	0

Note, that when you procure your Order from the Maſter, you muſt haue a ſpeciall care to ſee that his Secretary doe Regiſter your name for the ſaid Grant, in the Booke of Remembrances of this nature, leſt it ſhould be forgotten. And withall it will not bee amiſſe, that you vſe meanes to make the ſaid Sacretary mindfull of you in your abſence.

When the ſaid Commiſſion is executed, and the Office found thereupon, The ſame muſt bee deliuered into the Court of Wards, And hee that deliuereth it, muſt bee ſworne vpon the deliuery, that he receiued it from the Commiſſioners and that in ſuch manner as he doth deliuer it, being vnaltered in any point.

Fee for the ſaid Oath,	l.	s.	d.
	0	0	4

Then it is to be deliuered into the Office at the *Temple*, from whence it is to bee ſent ouer to the *Petty-Bagge*, where the Clerke will make you

you out a Copie of the ſame Commiſſion, and Inquiſition found vpon it, which you muſt carry backe to the Office of the Court of Wards, And then the chiefe Officer there, or the Auditor of the Court will make your Schedule by and out of the ſame Office or Inquiſition ſo found.

To this Schedule you are to get the hand of the Maſter of the Court; And that being obtained, you are to bring the ſayd Schedule ſo ſigned to the Officer, who is to make your Indentures of bargaine thereupon, which he, vpon ſight thereof, will performe accordingly.

Then you are to carry the ſaid Indentures to the Maſter of the Court, who ſhall ſet his hand to one part of the ſame, and you that haue the Grant of the ſaid Lunaticke, muſt ſet your hand and ſeale to the other part, And the part which you are to haue, muſt bee hereupon ſealed with the ſeale of the Court.

But before you haue your part, you muſt ſeale to the Kings part, And muſt alſo find two Sureties to be bound with you, that you ſhall truely account once in euery yeere to the Auditor of the Court for the profits of the liuing of the ſayd Lunaticke, And to anſwere the ſtocke and ſtate of the ſaid Lunaticke, if he ſhall chance to dye, or recouer his former health.

And if the parties who ſhould be bound with you, be not in towne: Then you muſt haue a

Commission directed to foure such in the Countrey as you will nominate, to see and certifie the signing and sealing of your sayd sureties to the said Bond.

This Commission and Bond must be returned into the Court of Wards who deliuers it ouer to the proper Clerke or Officer; whereupon you shall haue your part vnder the hand of the Master of the Court, and the Seale of the said Court.

Then must you Inroll your part of the said Indenture, so signed and sealed in the Auditors Office: And so you haue made an end, &c.

And

You may conceiue how seuerall Fees doe arise vpon seuerall passage aforesayd.

Instructions to passe a Ward.

Inprimis, you must make meanes for the obtaining of a Ward, as in case of a Lunaticke aforesaid.

When you haue got the promise and order for it from the master of the Court of Wards, you are to goe to the Kings Attourney of the said Court, and vse meanes vnto him for a Commission to enquire and finde the Ward, and a Tenure for the King: whereupon you may haue a Warrant from him to leade such a Cõmission.

When

When you haue that Warrant, and thereupon your Commiſſion, you muſt get that Commiſſion, to be by the proper Clerk to whom it doth appertaine, directed to the Feodary of the County, and two ſuch others as you ſhall nominate and appoint.

When this Commiſſion is ſped and executed, and the Tenure found for the King, which doth conſequently proue the Ward, you are to returne this Commiſſion into the *Petty Bagge*, and there to take a Copy of it, which you are to deliuer to the Clerke to whom it belongs in the Office of the Court of Wards, and hereupon he wil make you forth vpon ſight thereof a Schedule of the value of the Land.

Then you muſt carry the Schedule to the Secretary of the Maſter of the Court, to the end that he may procure his Maſters hand to bee ſet vnto the ſame, And the Office for it, with the Wards exhibition, and the names of the party, or parties, which are to haue the Ward: All which muſt be likewiſe ſet downe,

And when you haue the ſayd Schedule ſo ſigned, Thereupon the Indentures of the grant are to be drawne vp, To the one part whereof he or they that haue the Ward, are to ſeale and ſigne; and to the other the Maſter of the Court doth vſe to ſubſcribe his hand, and then the Seale of the Court is affixed thereunto.

Now if the parties who haue the graunt,

haue not alſo their Sureties who are to vnder-take for them in this behalfe, in Towne, ſo that they may here enter into Bond with him, with condition of making a true account, and not doing of any waſt, &c. Then there muſt bee a Commiſſion procured to foure ſuch perſons as the Grantee or Grantees ſhall name, to attend and ſee the ſealing and deliuery made by him, or them, and his or their Sureties, which the Commiſſioners muſt certifie and ſend vp vnder their hands and ſeales, atteſted with ſome Witneſſes to the ſame.

And this muſt be deliuered into the Office of the ſayd Court, to the proper Officer, with and vpon Oath to be made, that it is deliuered in ſuch manner, as it was receiued from the Commiſſioners themſelues vnaltered, &c.

Thereupon you ſhall haue a Bill for the receiuing of the exhibition thereof, And according to the Aucient forme of practice, That Bill was wont to bee then ſigned by the Kings hand, by the procurement of the proper Clerke of the Office.

And when the ſame is ſo ſigned, it does paſſe through the ſeuerall Seales, and at the laſt vnder the Great Seale of *England*, which courſe, I vnderſtand not to bee altered as yet: howſoeuer I may ſuſpect, in regard of the many new Inſtructions which haue iſſued of late times, for the ordering of the affaires of this Court, that

ſome

ſome ſmall difference may *intercedere*, &c.

When your ſayd Patent is ſo ſealed, you are to deliuer the ſame and the Schedule of the value of the Land to the Auditor of the Court, who is to ſee that the ſame bee forthwith enrolled.

And thereupon the Auditor will giue order to the Feodarie of the Shire, to pay you the exhibition yeerely, &c.

The charges of obtaining a VVard, doe follow.

Feod. ſequuntur.

In primis, for the Commiſſion to find the tenure for the King	0 — 15 — 1
Item, the Returne therefore to the Clerke of the Petty-Bagge,	0 — 16 — 0
Item, the Copie of the ſaid Office at eight pence the ſheete,	8. *pence the ſheete.*
Item, to the Clerke of the petty Bagge for examining of the ſame	0 — 2 — 0
Item, for making of the Bargaine,	2 — 0 — 0
Item, to the ſaid Officers Clerke who maketh the ſame,	0 — 14 — 4
Item, for making of three Obligations.	0 — 16 — 0

Item,

	l.	s.	d.
Item, for the Commission for sealing of the bargaine & Obligation in the Country, in case where the partie Grantee or his Sureties be not in towne to Seale.	0	5	6
Item, to Master Attourneyes man for the *Affedauit inde*	0	0	4
For drawing of the *Schedule*,	0	6	8
For drawing of the Bill to bee signed, and getting of the Kings hand unto it.	0	6	8
To the Clerke for writing of the said Bill,	0	3	4
To him more for entring the same into the Booke.	0	2	0
To the Auditor for enrolling of the Patent and *Schedule* of the Land,	0	13	4
	Or rather, as you can agree.		
To the Clerke for writing of the *Schedule*.	0		

Besides the Copie of the Office, —*vt supra.*

Thus I conclude with this Court, giuing you farther to take in direction, that you examine these with the latest Bookes of Instructions giuen and published in Print for the ordering of this Court; whereby you shall the better discern the alterations if any be.

FOr the Ideot, I had almost forgot him; Howsoeuer the matter is not great: For it is but a fooliſh buſineſſe when all is done.

You

You haue a faire example of a Lunatieke before your eyes, and therefore I ſhall onely neede to giue you this monitorie inſtruction touching an Ideot: That you be aſſured that your ſelfe is ſomewhat the wiſer man before you goe about to beg him, or elſe neuer meddle with him at all leſt you chance to play at *handy dandy*, which is the Gardian, or which is the foole? and the caſe altered *Conuerſo, ad Conuerſum.* I pray let vs haue no *Platoniſme* in the matter: And ſo much for the Ideot.

THE

THE COVRT OF PARLIAMENT.

I should say somewhat concerning that great Court of Record, The Parliament. But the obiect is so farre remoued from my sight, that I cannot presume a certaine representation, with these weake *species* of eying those mysteries: I make bold by way of explanation, Introduction and Deduction of Sir *Thomas Smiths* Common-wealth to deliuer this onely.

YOu shall vnderstand that all the Law of this Land which is positiue, doth consist either in { Acts of *Parliament*: or, *Proclamations*.

For the Acts of Parliament, publique or priuate

uate: They be all kept, and remaine in the Cuſtody of the Clerkes of the Parliament; Howſoeuer (as I ſhewed you in the Search of Record) that they are, or at leaſt ſhould be, in the Chappell of the Rolles likewiſe, and moſt of them are brought ouer thither by *Certiorare, vt ibidem, &c.*

Theſe Acts (as you may reade) are made and eſtabliſhed by the King, the Peeres and Commons of the Land, ſo ſtably and ſanctedly, that they be taken for Law.

And that you may the better conceiue, what are the buſineſſes, what the practice, and what conſequently the Records of this Court, I will briefely receiue the very words of Sir *Thomas Smith*, to that point onely:

(*viz.*)

The Parliament Abrogateth old Lawes, Makethnew; Giueth order for things paſt, and for things hereafter to bee followed; Changeth right and poſſeſſions of priuate men; Legitimateth Baſtards; Eſtabliſheth formes of Religion; Altereth weights and meaſures; Giueth forme of Succeſſion to the Crowne; Decideth of doubtfull Rights and Titles, whereof there is no Law already made; Appointeth Subſidies, Tailes, Taxes, and Impoſitions; Giueth moſt free Pardons and Abſolutions; Reſtoreth in Bloud, and Name; Naturalizeth Aliens borne out of the Kings Allegeance, and to bee ſhort,

All that euer the people of *Rome* might doe eyther in *Centuriatis comitijs*, or *Tribunitijs*, the same may bee done by the Parliament of *England*: And so much to the current of his streame.

It is euident, that this is the highest Court of this Realme, because the Authority of it is absolute, and bindeth all manner of persons, For that they are all parties and priuies thereunto, by way of Representation, &c.

Vnto this High Court doe come some, ——— 1. By reason of their Tenure. 2. By vertue of Writ. 3. By vertue of Office.

There doe come by reason of Tenure these; (*viz.*) Archbyshops, Byshops, Abbots, Priors, Dukes, Marquesses, Earles, Barons. } *per Tenure*

These vse to bee summoned to appeare by the space of forty dayes before the Parliament.

They who doe come in by Writ, are these: (*viz.*) Knight of the Shires. Burgesses. Citizens of Cities. Barons of the 5. Ports. The Kings Councell. } *per Brevia*

There

There doe come hither also by Writ, directed to the seuerall Deanes, and Arch-deacons of this Kingdome: Two seuerall Proctors of the Clergy, for euery seuerall Deaconrie, & Archdeaconrie. *per bre.*

These Proctors of the Clergie, bee elected by the Clergy also.

And euery of these doe bring with him two Warrants whereof hee keepeth one by himselfe, and the other hee enrolleth with the Clerke of the Parliament.

From hence, some haue gathered an opinion, That sometimes heretofore the Conuocation house hath beene a member or part of the Parliament house.

But it appeares to bee otherwise in the Case of *Philot*, who being questioned for Heresie, and certaine heretical words by him spoken, did in his answere alleadge, That the words so spoken, were deliuered by him in the Conuocation house, which he held to be a place of freedome and liberty of speech, as being a limme or member of the Parliament House; which affection was ouer-ruled, And the Conuocation adiudged to be no member of the Parliament House. For though they come by Writ or Sommons to the Parliament; Yet they haue no power ouer the Laitie, but onely authoritie to charge the Spiritualtie; Or to make Institutions Prouin-

ciall, as Holy-dayes, Fasting-dayes, And such like; And an Act of Parliament may passe without their consent, priuitie, or interposition in any manner of wise, &c.

Per Seruice.

There doe come hither, by reason and vertue of Office, these; (*viz.*)

1 The chiefe Cryer of *England.*
2 The chiefe *Vsher.*
3 The *Chancellor* } of the
4 The *Treasurer.* } *Exche-*
5 The *Chamberlain* } *quer.*
6 The *Barons,*
7 The Iustices of either *Bench.*
8 The Steward of *England.*
9 The Porter.
10 Groomes.
11 And all tyed by seruice to be here done, &c.

The Stewards Office hath beene to place the Lords there.

The Porter hath vsed to see that there bee but one doore, at which to goe in and out.

And euery one of the aboue named Officers, hath had his seuerall charge respectiuely.

The

The Allowance of the Knights, Burgesses, and Barons of the Cinque-Ports follow: (viz.)

EVery Knight of the Shire hath used to haue the Allowance of a Mark by the day to be payed by the County whereof he is Knight; And this may be leauied by distresse, &c.

Knight: 13. s. 4. d. *per diem.*

Burgesses and Barons of the Cinque Ports,

These haue not vsed to haue *per diem* aboue 10. s. *per* piece for expences.

And for the leauying of this, They haue not vsed to Distreyne, but haue tooke forth a Writ vnder the Great Seale of *England*.

The Writ for the Barons of the Ports, is directed to the Warden.

The Writ for the Burgesses, is directed to the chiefe Magistrates of the Citie or Towne Corporate for which they are Burgesses.

And the bodies for whom the forenamed persons are imployed, must pay the Fine for their default, &c.

As

As,	l.	s.	d
For the first day wherein the Burgesse shall bee called, and appeares not his Burrough shall pay	0	100	0
If at the second day the Knight of the Shire doe not appeare, his Shire shall pay	100	0	0
If at the third day a Baron of the Cinque-ports shall not appeare, those of the Cinque ports shall pay	66	6	8
If at the fourth day the *Proctor* of the Clergy doe make default, his Byshop shall pay	100	0	0

And if all the Byshops, and all the Lords Spirituall and Temporall bee absent, hauing lawfull Summons; Many are of opinion, That the King with his Commonaltie may proceed alone.

The officers in Parliament are. The Speaker. Two Clerkes.

Of which Clerkes one is for the Vpper House, and the other for the Lower House.

The Speaker he doth commend and preferre the Bils exhibited into the Parliament.

The Speaker is usually appointed and nominated by the King, though accepted by the House; And the Lord *Keeper* or Lord *Counsellour* vseth commonly, *pro forma*, on the first day of a Parliament to speake to the House, that they

they make choyce, and name one to be their Speaker, &c.

The Clerkes are *Custodes Rotulorum Parliamenti.*

Touching their Fees: *Non altum sapimus*, &c.

And thus I conclude with the Parliament.

For the other part of the Positiue Law, which does consist in Proclamations: I may onely say what they are, And what is the power of them, according to the common receiued opinion; and farther I intend not any speculation into them.

Proclamations are, wherr the King and his Councell thinke fit and expedient to publish any thing as a Law.

The effect and power of them, as also the paine of him that breaketh the same, you may reade in diuers Treaties vpon this subiect; In all which I find this generall consent; That if the Ordinance or Proclamation so made, be in supplement or Declaration of a Law that hath been formerly made and beene good; It is to bee obeyed as a Law, and the breaker thereof is to vndergoe the paine of him that breaketh a Law and his Allegeance, &c. So did those *Prouisiones Merton* attaine, & to this day doe hold the name and reputation of the Statute of *Merton*, &c.

Dix.

THE OFFICE OF AN ESCHETOR is ſet forth in theſe few lines following: (viz.)

REgia demandunt brevia Eſchætoribus *iſta*
Cognoſcenda; ſibi Quæ ſint Attinctio donet;
Quantum de ſeſe; Quantum de alijſq; tenebat;
Per quæ ſervitia tenuit; Quantumq; valebant
Terræ: Quoq; die fatis cuncceſſit, Et hæres
Quiſnam proximior; Cuiuſq; ætatis ab ortu.

Note:

Where the value of the Lands to be enquired of, doe exceed the value of fiue pounds *per annum*, There he muſt enquire onely by vertue of Writ.

Where the Lands are vnder that value, he may enquire by vertue of Office, and that Writ.

In euery caſe the Inquiſition found, muſt bee returned into the *Petty-Bagge*, &c.

THE

THE DVCHY COVRT.

THis is a great Court of Record, and it admits Pleas as well Reall as Personall, as also mixt pleadings, concerning the Lands of the Duchy.

The Iudges heere are the *Chancellor* of the Duchy, assisted by his Maiesties Attourney of the Court, and two Iudges of the Common Law, who aduise them for matter of question of Law.

The Rolles and Records of this Courts proceedings, are in the custody of the Clerke of the same, to whose office they doe appertaine.

But the Kings Euidence, Leases and Graunts of the Duchy Land, as well the Possessions and

Copy-hold, as Fee-simple, and Fee-ferme, are all in the keeping of the Auditors.

The Auditors of the Court are diuers, howsoeuer two are most principall; one whereof for the Lands of the Duchy on this side Trent, and another for the Lands beyond Trent.

There bee diuers Surueyors for the Duchy Lands, for the Suruey of them, but they keepe no Record, vnlesse it bee some models of their owne making.

And so I leaue the Duchy, &c.

THE CONCLVSION.

I *Conclude with this humble Request made to those who haue power of Reformation, in this crying reigning euill amongst Lawyers, touching the disappointment, and defeate of Clyents causes, for which they are retayned and Feed, and yet often faile to giue attendance in the houre of Tribulation, or to bee neere vnto the Clyent in the day of Visitation (a foule fault in a friend, but a worse in a seruant.)*

It may therefore please those in Authority to giue the abuse this proper redresse; (viz.) *That if any one of them take his Fee to bee of Counsaile, and to attend at such a certaine time and place, and shall notwithstanding faile; The partie who so Feed him, vpon complaint to the Iudge before whom hee*

was feed to bee, may haue his Fee returned againe, with ſuch Dammage as hee ſhall make appeare to the ſaid Iudge that hee hath ſuſtained by the Abſence of ſuch Counſaile, And that in caſe it ſhall bee prooved that hee abſented himſelfe in fauour of the aduerſe party, hee may bee fore-iudged his practice, and receiue ſome other fitting and exemplary puniſhment in that behalfe.

FINIS.

Felix quem nulla Cyrenia pinſit.

T. P.

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How

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CLERKE OF THE PEACE.

FEes belonging to the Clerke of the *Peace*, with the businesse of his Office, and the manner of proceeding at Sessions: wherein in one place, (*viz.*) pag. 203. instead of *Clericus Custodis Rotulorum pacis*. It is printed *Clericus Clerici Rotuli*, &c. *fol.* 201, 202, 203, 204, 205

CLERKE OF THE ASSIZE.

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THE charge of procuring a Will (the Inuentory being forty pounds and not aboue.) *fol.* 208.

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WHereupon all the Positiue Law of the Land doth consist. *fol.* 218.

Who keepes all the Acts of Parliament. *fol.* 219.

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What Fines euery of them is to pay, vpon their default, in not appearing. *fol.* 224.

What courſe the King may take, if all the Lords be abſent (according to opinion) *fol. eod.*

The Officers here, and their places. *fol. eod.*

How the Speaker is appointed. *fol.* 224.

What Proclamations are. *fol.* 225.

The power of Proclamations, with the penalty of him that doth breake the ſame; *fol. eod.*

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What may bee found by vertue of Writ, and what by Office of Eſchetor, as he is a Commiſſion of himſelfe. *fol. eod.*

THE DVCHY COVRT.

WHat pleadings the Duchy Court holdeth. *fol.227.*

The Iudges heere. *fol.eod.*

Who keepes the Rolles. *fol.eod.*

Who keepes the Leases, Grants, and charge of the Duchy Lands. *fol.227.& 228.*

The Auditors and Surueyors of the Duchy Court. *fol.228.*

The Authors Requeſt, touching the defeat of Clyents cauſes,, by theyr owne Counſailes default. *fol.229.& 230.*

THE

THE

OATH VVHICH AN ATTOVRNEY VVAS

anciently wont to take vpon his *Admission, being now disused, And in stead thereof, the* Oath *of* Allegeance *is onely ministred; howsoeuer both would doe better.*

YOu shall do no Falshood, nor cause any to be done in the Court: And if you know of any to bee done, you shall giue knowledge thereof to my Lord chiefe Iustice or some of his Brethren, that it may be reformed: you shall delay no man for Lucre or Malice;

Nor

Nor ſhall increaſe any Fees, but be content with the old Fees accuſtomed: You ſhall plead no Forraigne *Plea*, Nor ſue any Forraigne ſuite vnlawfully to the hurt of any man; But you ſhall ſue ſuch onely, as ſhall ſtand with the order of Law and a good Conſcience: You ſhall ſeale all ſuch Proces as you ſhall ſue out of this Court with the Seale thereof onely, and ſee the Kings Maieſtie, and my Lord chiefe Iuſtice diſcharged for the ſame: You ſhall not wittingly ſue, or procure to bee ſued any falſe Suite, or giue ayde or conſent to the ſame, on paine to bee expulſed the Court for euer: And further, you ſhall beare your ſelfe honeſtly & vprightly in the Office of an Attourney of the Court, according to your beſt Learning and Diſcretion, and as good Conſcience bindeth you, So helpe you God, &c.

Novv

I bring the Returnes themſelues home in the Rere of my Booke, as being the onely Leaders of Attournies proceedings, and the practice being paſt before: they offer themſelues in the laſt place, being moſt markable and ready to euery hand, as occaſion may require:

The

The foure Termes with their Returnes.

Hilary Terme begins *January* 23. and ends *February* 12.

Returne Dayes, or, Essoyne Dayes.	Exception day	Returna Brevium.	Appearance dayes.
Octabis Hil. Ian. 23.	Ian. 24.	Ian. 25.	Ian. 26.
Quind. Hil. Ian. 27.	Ian. 28.	Ian. 29.	Ian. 30.
Craſt. Purif. Feb. 3.	Febr. 4.	Febr. 5.	Febr. 6.
Octab. Purif. Feb. 10.	Febr. 11.	Febr. 12.	Febr. 13.

Easter Terme begins *April* 30. and ends *May* 26.

Quind. Paſch. Ap. 30.	May 1.	May 2	May 3.
Tres Paſc. May 5.	May 6.	May 7.	May 8.
Menſe. Paſc. May 12.	May 13	May 14.	May 15.
Quinq. Paſc. May 19.	May 20.	May 21.	May 22.
Craſt. Aſcen. May 23.	May 24.	May 25.	May 26.

Trinity Terme begins *June* 13. and ends *July* 2.

Craſt. Trin. June 9.	June 10.	June 11.	June 12.
Octab. Trin. June 16.	June 17.	June 18.	June 19.
Quind. Trin. June 23.	June 24.	June 25.	June 26.
Tres. Trin. June 30.	July 1.	July 2.	July 3.

Michaelmas Terme begins, *October* 9. & ends *Nouemb.* 28

Octab. Mich. Octob. 6.	Octob. 7.	Octob. 8.	Octob. 9.
Quind. Mich. Octo. 13	Octob. 13.	Octob. 15.	Octob: 16
Tres Mich. Octob. 20.	Octob. 21.	Octob. 22.	Octob. 23.
Menſe Mich. Octob. 27	Octob. 28	Octob. 29.	Octob. 30.
Craſt. anim. Nouemb. 3.	Nouemb. 4	Nouēb. 5.	Nouēb. 6.
Craſt. Mart. Nouem. 12	Nouem. 13	Nouē. 14.	Nouē. 15.
Octab. Mart. Nou. 18.	Nouem. 19	Nouē. 20.	Nouēb 21
Quind Mart. Nou. 25.	Nouem. 26	Nouē. 27.	Nouēb, 28.

The Law dayes in the Courts of

Arches, *Audience*. *Prerogatiue*, } *Conſiſtory*, *Delegats*, *Admiralty*.

In *Hillary* Terme:

S. *Hillary*,	13	January.
S. *Wolſton*.	19	
Conuerſio S. *Pauli*.	25	
S. *Scholaſtic*.	10	February.
S. *Valentine*,	14	

In *Eaſter* Terme.

Quind. Paſch.	28.	Aprill.
S. *Gordian*.	10	May.
Aſcenſion day.	22	

In *Trinitie* Terme.

Corpus Chriſti,	12	June.
S. *Buttolph*,	17	
S. *Iohn Baptiſt*.	24	
S. *Paul*.	30	

In *Michaelmas* Terme.

S. *Faith*,	6	October.
S. *Edward*,	13	
All Soules,	2	November.
S. *Martin*,	11	
S. *Edmund*.	20	

And when and where, their ſeuerall Courts are ſeuerally and reſpectiuely kept, you ſhall read in the common Almanacke at large.

FINIS.

—— Cum tonat ocyus Ilex
Sulphure discutitur sacro quam tuq; (Domusq;.

T. P.